

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI, DIVISION

HENRY NARANJO and
MARLENE RAMIREZ,

CASE NO. 00-60222-CIV
LENARD/TURNOFF

Plaintiffs,

vs.

STEPHEN BYRON SMITH, PALMER
JOHNSON EXPORT SALES, INC.,
PALMER JOHNSON DISTRIBUTORS
INC., AND PALMER JOHNSON INC.

Defendants.

COPY

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DEPOSITION
OF
MARK TORTORA

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Mark Tortora

By Mr. Weber

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By Mr. Kallen

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By Mr. Famulari

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By Mr. Weber

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By Mr. Kallen

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Deposition of MARK TORTORA, a witness of lawful age,
taken by the Defendants for the purpose of discovery and for
the use as evidence in the above-entitled matter, wherein
HENRY NARANJO and MARLENE RAMIREZ are the PLAINTIFFS, and
STEPHEN BYRON SMITH, PALMER JOHNSON EXPORT SALES, INC.,
PALMER JOHNSON DISTRIBUTORS INC., AND PALMER JOHNSON INC.
are the Defendants pending in the United States District
Court, Southern Division of Florida, Miami Division,
pursuant to notice heretofore filed before DEBORAH PEARLMAN,
a Notary Public in and for the State of Florida at Large,
taken at 300 S.W. 7th Street, Fort Lauderdale, County of
Broward, State of Florida, on the 12th day of January of the
year 2001, commencing at 2:30 o'clock p.m.

THEREUPON:

MARK TORTORA,
a witness of lawful age, being called as a witness by the
Defendant, having been duly sworn, testified under oath as
follow:

DIRECT EXAMINATION

BY MR. WEBER:

Q. Could you state your name please?

A. Mark Tortora.

Q. And would you spell your last name?

A. T-O-R-T-O-R-A.

1 Q. And is it okay if I call you Mark or do you go by a
2 nickname?

3 A. You can call me Mark or Torch or anything.

4 Q. And how old are you, Mark?

5 A. Thirty seven.

6 Q. And what's your address?

7 A. 2780 South Oakland Forest Drive, Number 1603,
8 Oakland Park, Florida, 33309.

9 Q. Have you ever had your deposition taken before?

10 A. Yes, I have.

11 Q. You know then I'm going to be asking you some
12 questions today and I would like you to answer these
13 questions; do understand that?

14 A. Yes.

15 Q. This lady here is going to take down the questions
16 and answers and that's difficult so you need to answer out
17 loud and we need to not talk over each other.

18 Are you agreeable to that?

19 A. That's agreeable.

20 Q. If I ask you something today, Mark, that you don't
21 understand, ask me again and I'll rephrase it, is that
22 agreeable?

23 A. Okay.

24 Q. You're currently employed at Bradford Marine?

25 A. Correct.

1 Q. In what capacity?

2 A. I'm the Operations Coordinator.

3 Q. We had deposed Dave Henderson earlier today and I
4 think he did he described you as the "Project Manager"; is
5 that the same thing as an Operations Coordinator?

6 A. That's one of my duties.

7 Q. That's one of your duties, Operations Coordinator?

8 A. Yes.

9 Q. Do you have other duties as the Operations
10 Coordinator?

11 A. I do. I assist Dave Henderson who's the yard
12 superintendent. I coordinate projects throughout the yard
13 and I oversee the safety environmental issues in the yard.

14 Q. How long have you been the Operations Coordinator?

15 A. About three years.

16 Q. And have you been a project manager about the same
17 amount of time?

18 A. I guess project manager probably about four years
19 and maybe a little bit longer; between four and five years.

20 Q. As a project manager I could assume that's the
21 capacity in which you assist Dave Henderson?

22 A. Correct, in the capacity with Dave Henderson; he
23 over sees the entire operations of the yard and I'm there in
24 the same office as him.

25 I take on projects of my own at the yard, coordinate

1 between contractors and yard personnel work with department
2 foreman and crew to accomplish the work that needs to be
3 done on vessels, on particular vessels.

4 Q. He identified a number of different foreman in the
5 yard. I assume that these various foreman report to you?

6 A. Correct.

7 Q. And do you report then to Dave Henderson?

8 A. Yes. Dave Henderson is my immediate supervisor.

9 Q. I want to talk you a little bit about the Safety
10 Department or what did you call it, safety and --

11 A. Safety and Environmental; yeah.

12 Q. How long has that department been in existence?

13 A. Since, I believe prior to -- they had started - are
14 you asking about how long have I've been involved in
15 Bradford Marine or how long had --

16 Q. Did I ask you how long had you had been at Bradford?

17 A. Yes.

18 MR. KALLEN: No.

19 BY MR. WEBER:

20 Q. Did I ask you how long you've been the Operations
21 Coordinator?

22 Let's make sure we're clear. How long have you been
23 at Bradford?

24 A. I've been at Bradford since 1995, I believe
25 September 1995. It's my second tenure at Bradford Marine.

1 Q. Your first tenure was when to when?

2 A. October 1990 - sorry '91. October 1991 to October
3 1993. The month is approximate.

4 Q. And why did you leave Bradford the first time?

5 A. I left and went to a more technical position at a
6 marine engineering company to further my career.

7 Q. But you ended up coming back in 1995?

8 A. I asked to come back to Bradford marine to assist
9 the management. When I was working at Bradford Marine the
10 first time, I was an employee in the machine shop there.

11 When I came back, I came back in a management
12 position and a Safety Director position at Bradford.

13 Q. Was the safety department there, was it in existence
14 when you came back 1995?

15 A. Yes.

16 Q. Who was the head of it at that time, prior to your
17 taking over the department?

18 A. Lonnie; Sargent.

19 Q. The last name, what's the last name?

20 A. That is the last name.

21 Q. Sergeant is the last name?

22 A. Lonnie.

23 Q. Lonnie, okay.

24 Did you have any experience welding between 1991 and
25 1993 at Bradford?

1 A. Personally?

2 Q. Yes?

3 A. No. I'm a welder by trade so I have experience in
4 welding; although I was not employed as a welder at Bradford
5 Marine, no.

6 Q. When you say you're a "welder by trade", what do you
7 mean by that?

8 A. I'm a tradesman boilermaker. I did my
9 apprenticeship in Australia for four years, an
10 apprenticeship there. I'm classified as a Journeyman.

11 Q. Did you ever work as a welder?

12 A. At Bradford or anywhere?

13 Q. Yes, anywhere?

14 A. Yes.

15 Q. Where?

16 A. In Australia and in the United States.

17 Where do you want me to start?

18 Q. From the beginning.

19 A. I started my apprenticeship when I was 15 years old
20 in Australia. Walker Limited hired me on as an apprentice
21 boilermaker.

22 I did a four year apprenticeship and became a
23 tradesman boilermaker. I then left and worked in the coal
24 mines in Central Queensland, Australia on coal mine
25 construction.

1 Q. How long did you do that?

2 A. I did that from 1980 or 1983 until 1987. I worked
3 at various construction cites building coal mines. There's a
4 big coal mine thing in Central Queensland.

5 I then went and worked for a coal mine as a
6 maintenance boilermaker in maintenance and open cutting
7 underground, open cutting and underground mining are
8 something different.

9 So I was in maintenance department and I did heavy
10 equipment moving for the mine. I then left and came to
11 America in 1987.

12 Q. Did you work as a welder in this country?

13 A. I have worked in welding in this country for a
14 company called Chicago Bridge and Iron out of Plainfield,
15 Illinois.

16 Q. How long did you work there?

17 A. I was with them approximately eight months.

18 Q. Was that right after you got here?

19 A. No, I worked construction in Miami, but not in the
20 welding capacity in Miami. My last paid welding job was
21 C.B.I.

22 Q. That's Chicago Bridge and Iron?

23 A. Yes.

24 Q. Other than the eight-month stint with Chicago Bridge
25 and Iron, did you work as a welder at any other place in the

1 U.S.?

2 A. No. No.

3 Q. And when you got your first job at Bradford Marine,
4 it was in the machine shop, correct?

5 A. Correct.

6 Q. You did not work in a welding capacity?

7 A. No.

8 Q. What were your job duties, in general, as head of
9 the Safety and Environmental Department?

10 A. My job duties are to this company was keeping up to
11 date with O. S. H A. Regulations, with the cleanliness of
12 the yard and overall safety throughout the yard.

13 Q. And what do you do in order to do that?

14 A. I do inspections, hold safety meetings, I assist and
15 I'm there for employees or department heads to come to with
16 a problem and I try to take care of a problem. If there is
17 a safety issue, I address it and we take care of that.

18 Q. When new employees come to work at Bradford, are
19 they given an employee manual?

20 A. They were back in 19 -- early 1996 there was an
21 employee manual that was printed for Bradford Marine. I
22 worked in -- we hired a safety consulting company called
23 Workplace Safety Solutions, which worked with me for a
24 period of two to three months when I first got back there in
25 '95 through into '96 and we built our safety program; full

1 safety program for Bradford Marine along with an employee
2 handbook that was handed out at that time, for a period of
3 time and faded.

4 The actual handbook faded out due to whatever. I
5 don't even really know the reason it was faded out. It was
6 moving along and everything was dandy, then suddenly it
7 faded out.

8 Q. Who's idea was it to bring on a consultant?

9 A. I believe Paul Engle, the General Manager of
10 Bradford.

11 Q. Was there a particular event or series of events
12 that prompted the hiring of a consultant for safety reasons?

13 A. I believe that the Workman's Comp. Insurance
14 premiums at Bradford Marine were starting to -- there was an
15 obvious lack of supervision in the safety area.

16 There had been a few accidents that had prompted
17 that they hire a Safety Director.

18 Q. Was this part of the pitch to you when you came back
19 in 1995, that they wanted to you revamp the safety
20 department?

21 A. Correct.

22 Q. As part of this whole process, a consultant was
23 brought in?

24 A. Correct.

25 Q. Do I take it that ---

1 A. His name was Brian Hill, by the way.

2 Q. The consultant that you actually dealt with?

3 A. The company was Workplace Safety Solutions.

4 Q. And his name was Brian Hill?

5 A. Yes.

6 Q. There had been a number of workplace accidents and
7 maybe premiums had gotten a little high?

8 A. Yes, there had been an influx of a reasonable number
9 of minor accidents, but a lot of them had been happening,
10 eye injuries, sprains and as the way I heard it, when I got
11 there, there was a certain amount of premium that Bradford
12 Marine had come to - what I believe, I can't remember the
13 exact name of it, but to a point with their premiums that
14 they may be dropped by their insurance company at the time
15 and right at this second I don't remember the name of the
16 insurance company at the time; but then they had like one
17 more year to show what they could do and I was hired.

18 There was like --

19 Q. Principally to turn things around, as it were?

20 A. Absolutely. Yes.

21 Q. Were you able to keep your comp. carrier?

22 A. Yes, we kept the comp. carrier for the following
23 year. After what we did.

24 MR. KALLEN: They renewed it?

25 THE WITNESS: They renewed it, exactly.

1 BY MR. WEBER:

2 Q. That would be the calendar year of 1996?

3 A. Uh-huh.

4 Q. That's a yes?

5 A. Yes.

6 Q. Do you know if you have the same comp. carrier today
7 that you had back then?

8 A. No, we don't.

9 Q. What comp. carrier do you have today?

10 A. As of November 15th of last year, it's a new
11 accompany by the name of Zenith.

12 Prior to that, we were with Freemont Industrial
13 Indemnity.

14 Q. This handbook that you talked about that was
15 implemented, when did that really go and fall by the
16 wayside?

17 A. I would say it started to fall by the wayside
18 towards the end of '96.

19 Q. All right. So was this in effect for about a year
20 then?

21 A. Yes.

22 Q. As part of that employee handbook, were there any
23 O.S.H.A. regulations defined in that handbook?

24 A. As far as the handbook itself that was handed out, I
25 don't remember. I believe - it's been a long time. I

1 looked at it and there were actual O.S.H.A. regulations
2 stipulated; although it was an overall safety message going
3 out to the employees of particular things to look out for in
4 particular areas of the yard.

5 Q. I understand. But it's your recollection, sitting
6 here today, that the handbook didn't contain O.S.H.A.
7 regulations itself?

8 A. The handbook did not, no.

9 Q. As a part of the safety program that you
10 implemented, were O.S.H.A. regulations handed out to the
11 employees in any capacity?

12 A. We had -- as far as handed out to the employees, I
13 can't say whether or not there was actual O.S.H.A.
14 regulations handed out.

15 There were safety meetings. There were particular
16 times when regulations were mentioned although at this
17 moment in time I don't remember them actually being in the
18 handbook.

19 I don't remember that. Now I can dig up a copy of
20 the handbook, I know where one is. I might be dreaming
21 here, I just don't remember. So I'm not going to answer
22 yes.

23 Q. That goes for the rest of the questions today, I'm
24 only asking what you know. If you don't know, tell me that.

25 A. Sometimes, automatically, my brain tries to think

1 and remember.

2 Q. I understand what you're saying and I'll continue
3 that way.

4 There are copies of the handbook still, at the
5 present time at Bradford?

6 A. I believe so, yes.

7 Q. If someone like me wants a copy, who would we ask?

8 A. Me.

9 Q. If I asked you for copy of this, you would be able
10 to get me one?

11 A. Yes.

12 Q. How thick is it?

13 A. The handbook is probably a half an inch thick.

14 Q. Is that something that you devised yourself or did
15 you do it with a consultant?

16 A. I did in conjunction with a consultant, although the
17 consultant definitely had the reins on that.

18 Q. I'll get to the safety meetings in a second.

19 Is there anywhere in the Bradford yard where you
20 post the O.S.H.A. regulations?

21 A. There's an O.S.H.A. poster posted on the main dock.
22 But as far as actual O.S.H.A. regulations being posted, no.
23 There was a safety manual each department actually had.

24 There was the larger on which explains this --

25 May I explain what I was trying to talk about?

1 There was three-ring binder at Bradford Marine about safety
2 at Bradford Marine, the Safety Program; which is around
3 about 3 inches thick.

4 There was the safety policies of Bradford Marine in
5 a smaller, in a smaller folder that each department, each
6 foreman had his own folder for their department, which
7 included O.S.H.A. regulations.

8 There was an employee handbook which went further;
9 which was what we just discussed, it's a half an inch thick
10 or three eighths of an inch thick; that gave an all around
11 view to safety within the yard.

12 Q. Okay. Let me explore that a minute.

13 The three-ring binder; how many of these existed;
14 just one?

15 A. No, I believe there were two copies of the three-
16 ring binder.

17 Q. Where was that kept?

18 A. One was in Paul Engle's office and one was in my
19 office.

20 Q. And I assume that that was the overall safety
21 planning?

22 A. Correct.

23 Q. And it probably had copies of each of the safety
24 policies for each of the separate departments in it?

25 A. Correct.

1 Q. Did it have anything else in it?

2 A. It had things all the way to checklists. It was a
3 fully-fledged O.S.H.A. handbook on how to run a safety
4 department in a business close to ours. There isn't really
5 a book to tell you how to run a private yacht repair
6 facility.

7 Q. Does that three-ring binder still exist?

8 A. Yes.

9 Q. Do you refer to it from time to time?

10 A. From time to time I still refer to it. It has not
11 been updated for a few years.

12 Q. For how long?

13 A. It was updated, I believe one time since '96. I
14 couldn't -- I don't remember what the date was or how much
15 it was updated, and then it has not been updated since.

16 Q. Why not?

17 A. Why?

18 Q. Yeah.

19 A. There was a time when Brian Hill, from Workplace
20 Safety Solutions, had offered to update the book, that was
21 one of his things that he did.

22 And the estimate was not approved.

23 Q. It's not cheap to hire a consultant, is it?

24 A. Not from what I've seen.

25 Q. So basically what you're saying is that is not an

1 expense that was approved?

2 A. Correct.

3 Q. In a nutshell, it wasn't updated?

4 A. Yes.

5 Q. Do I take it then that there were separate safety
6 policies for each of the various departments?

7 A. Yes.

8 Q. And were those in folders, or binders as well?

9 A. Yes, that was the second binder. The binder about
10 an inch, inch and a half thick. The three different
11 binders, each one, they were all exactly the same but
12 carried each of the department's information in them.

13 Q. Right. So we would have a separate binder for,
14 let's say, the welding department, correct?

15 A. Although it would encompass more than just the
16 welding department.

17 Q. What would it encompass?

18 A. General safety throughout the yard as well when they
19 were printed out this was work for in the welding
20 department. There was about ten folders printed up that
21 were exactly the same and contained the same information and
22 given to each department and held in the foreman's office in
23 each department.

24 Q. For instance, the foreman of the welding department
25 would get these?

1 A. Yes.

2 Q. And the foreman of the paint department would get
3 these?

4 A. Correct.

5 Q. And the foreman of the machine shop would get these?
6 They were all same?

7 A. Yes, they were all the same, encompassing the whole
8 yard, encompassing all depths.

9 Q. But it didn't include everything that was in the
10 three-ring binder?

11 A. No.

12 Q. My statement is correct?

13 A. Correct.

14 Q. So do I understand then that, let's say, the foreman
15 of the welding department would have certain information in
16 that folder about welding safety, but also if you wanted to
17 find something out about safety in the paint shop, he could
18 also look to his folder?

19 A. Correct.

20 Q. Were O.S.H.A. regulations contained in these
21 folders?

22 A. I believe so. Yes, I believe so.

23 Q. And did your consultant create these folders with
24 your help as well?

25 A. Correct. Actually the consultant had his own

1 direction of how he was creating it. When I came on board
2 as a mechanic slash welder, I did it for a living. I wasn't
3 the safety director. He came and turned me into what was
4 known as a "Safety Director" at the time.

5 So as far as my input, my input was limited to how
6 the folders were formatted.

7 Q. When you say "limited to how the folders were
8 formatted", what do you mean by that?

9 A. I didn't say what goes where or what O.S.H.A. rules
10 should be in there. It was where he and I spent a couple
11 months together. He brought me up-to-date where he felt
12 that a safety director the size of Bradford Marine should be
13 and he had a contract with Bradford Marine for a particular
14 amount of the money, for a particular length of time.

15 When it was time, he gave me a certificate and cut
16 me loose, for lack of a better expression.

17 Q. He gave you a certificate. What kind of
18 certificate?

19 A. There were certificates that he made on his
20 computer, by his company saying certified by Workplace
21 Safety Solutions, Mark Tortora has completed a particular
22 amount of hours for the course of supervisor, training for
23 different things.

24 Q. I think ultimately what you said earlier that
25 satisfied your Worker's Compensation carriers?

1 A. Yes. I worked closely to with the Worker's
2 Compensation company as well. We all met, Frank Maura, was
3 his name. He and I, after that, met pretty frequently,
4 probably once a month.

5 We would go over loss control and we would go over
6 any accidents that were out there and see how the safety --

7 Q. Frank Maura was with Zenith?

8 A. Exactly.

9 Q. It sounds to me like you had Zenith for at least --

10 A. About another year after that, and then and I don't
11 know if Zenith dropped us or if we got a better price.

12 Every year in November they shop for another price
13 just to shop around and to see what rates are out there. I
14 know that prior to me coming to Bradford Marine in six
15 months prior there had been lost time, 43 lost-time
16 accidents at Bradford Marine and in the 12 months after I
17 had been hired as their Safety Director and gone through the
18 course, there had been three or four.

19 It was a drastic, a drastic drop.

20 Q. So you don't know, with respect to Zenith, whether
21 they dropped Bradford or whether you got a more competitive
22 price somewhere else?

23 A. I believe - I believe we got a more competitive
24 price somewhere else. I remember the conversation because I
25 got along -- you get to know somebody and suddenly you think

1 you work with them for a while and they're gone. There
2 didn't seem to be any hard feelings. I don't believe they
3 dropped us. I think another price came in from Industrial
4 Indemnity then.

5 Q. Do foreman have their own offices at Bradford?

6 A. Yes.

7 Q. Is that where these particular folders were kept?

8 A. Yes.

9 Q. Did the employees underneath the foreman have access
10 to these folders?

11 A. Absolutely.

12 Q. In that where they were instructed -- I'm talking in
13 a general sense now, were employees instructed that if they
14 had any questions about any aspect of safety, they should go
15 and consult with those folders?

16 A. At the time when the employees meetings and
17 handbooks were handed out, everyone was instructed as to
18 what was in the folder and that the folder was available.

19 As to whether or not we actually said, you must
20 check this folder, I don't know. But what was - what was
21 put forward and stressed to the foremen, I mean to the
22 employees, was that they could either go see their foreman
23 if they had a problem or they could come see me.

24 Q. So you instructed employees that they had a
25 responsibility, I take it, to find answers to any questions

1 that they had; is that a fair statement?

2 A. That's a fair statement, yes.

3 Q. They could do that a number of ways: They could
4 talk to their foreman?

5 A. Yes.

6 Q. They could talk to you?

7 A. Yes.

8 Q. But they actually had a responsibility of answering
9 whatever questions they may have had about safety, is that
10 fair?

11 A. It was stressed to the employees at Bradford Marine
12 during this time that nobody is forced to do anything that
13 they don't feel comfortable with and if there's question or
14 a doubt at all, I have said this myself, that they are more
15 than welcome to ask a question of the foreman or of me and
16 if I did not know the answer, we would get an answer for
17 them and we would find out just so somebody doesn't have a
18 question in the back of their mind about anything in all
19 departments.

20 Q. Tell me about the safety meetings.

21 Who conducted the safety meetings?

22 A. For the first couple of months it was Brian Hill
23 from Workplace Safety Solutions and myself.

24 Then I started taking over the safety meetings.

25 Q. How were they conducted?

1 A. We met. We had a Safety Committee at that time. I
2 had, like, a little shed built, or set up, at the end of
3 what we call "main street" at Bradford Marine.

4 I would get the committee in there. After we did
5 an overall -- once the safety program went into effect, we
6 took all the employees and at the time I think, or I
7 believe, there was 150 employees in each department.

8 We split the large departments, like the welding
9 department and paint department, we split up the departments
10 because there was a lot of people.

11 We made them come to the meetings, 20 to 30 people
12 at a time from the bigger departments and the smaller
13 departments brought that whole department in because some of
14 them ranged from three to fifteen, you know.

15 So we had an entire yard-wide meeting about: This
16 is what's happening from now on and we started doing fit
17 testing.

18 Q. But you didn't close the yard just to have a safety
19 meeting?

20 A. That's what I'm saying, we spent a couple of days to
21 take pieces of departments. We didn't close the yard, but
22 it certainly slowed the yard down.

23 Q. In the course of a year, when was the first meeting,
24 if you recall, after you became the Safety Director or head
25 of the Safety Department?

1 A. Uh. I would have to - I do believe the first one
2 started in January '96, I believe. Like I said, that was
3 one overall meeting with the entire yard. Then the Safety
4 Committee was brought into action.

5 Then I would talk to the Safety Committee and then I
6 would also go around and ask different employees -- each
7 foreman if I could get different employees to get different
8 inputs.

9 Q. Who was on the Safety Committee?

10 A. We had a mixture of employees, regular employees;
11 foremen and supervisors. I don't remember their names right
12 off the top of my head.

13 Q. Is that Safety Committee still in existence?

14 A. No.

15 Q. When did that dissolve?

16 A. Probably a year or so after.

17 Q. Going back to 1996, you had an overall meeting with
18 the entire yard in January?

19 A. Uh-huh.

20 Q. That's a yes?

21 A. That's a yes. Up to, it would have been December,
22 it was close though because I started in October. It may
23 have been November, December, or January; but in was in that
24 area.

25 Q. Then I take it during the course of the year you had

1 various safety meetings with smaller numbers of employees?

2 A. Correct.

3 Q. Let's take 1996, do you know how many safety
4 meetings you would have had?

5 A. I had a record of those safety meetings. I do not
6 right now, anymore, have a record of those safety meetings.

7 Q. Why not?

8 A. Because I had it on my hard drive of my computer. I
9 had a paper list and I had it on a disk in that shed I was
10 telling you about on the end of Main Street and water got
11 into that shed and ruined the books that I had in the desk.

12 I had an old desk that was going to be thrown out,
13 so I set up safety shed. It wasn't in the best shape back
14 there but they got damaged and I was starting to - I wasn't
15 really a computer whiz back then, but I was trying to keep
16 records on my computer and my disk - I had just gotten into
17 computers - after a period of about 12 months, I lost the
18 hard drive off my computer and I had no back up of these
19 papers.

20 Q. Would it be fair to state that in 1996 that every
21 employee would have attended the overall meetings?

22 A. Yes.

23 Q. Then would each employee have attended a smaller
24 meeting, at least one?

25 A. No, not each employee. There was a lot of

1 employees. There was a lot of turnover in a couple of the
2 departments at Bradford Marine, especially the Paint
3 Department; the turnover is pretty great there.

4 With the skill level it's kind of transient, there's
5 more transient workers in the Paint Department. It's not
6 the funnest work you want to do. The turnover of employees
7 we try to keep up with, I tried to keep up with new-hire
8 orientation. Eventually that fell to the wayside as well
9 after a period of time as well due to my duties at Bradford
10 Marine being pegged.

11 Q. You were in charge of new-hire orientation at one
12 point?

13 A. Correct.

14 Q. That's fallen by the wayside?

15 A. As well, yes.

16 Q. Basically you have too many duties and not enough
17 time in the day?

18 A. Correct.

19 Q. Let's go back though to 1996 and the safety
20 meetings. I understand that you don't have any records
21 anymore?

22 A. Yes.

23 Q. But can you give me any sense of how many meetings
24 you had in 1996?

25 A. We had one each month in 1996 and I believe they

1 even took us into early 1997. There was one period in 1996
2 where I missed a meeting.

3 So we had one each month. Then somewhere closer to
4 the end of the year, due to whatever the circumstances were,
5 I missed a month.

6 Then this went to the next month. I planned to go
7 back and fill that gap but I never got back there. So I
8 could confidently tell you we had, in the period of 1996, 11
9 meetings with various employees throughout the yard.

10 Q. How about 1997, were things starting to fall by the
11 wayside, in 1997?

12 A. My duties were starting to fill up in 1997. Yes,
13 early - yes, in 1997, it started to fade.

14 It was probably in the first quarter.

15 As far as how many we had, by my memory, that I
16 remember, the safety meetings would go every two months and
17 then when I could put one together and get the backing of
18 the yard, we would put one together.

19 Then it suddenly, you know, then I would get with
20 the foreman every now and then and then it became less after
21 that.

22 Knowing in the back of my mind this was one of my
23 duties, I said, we need to keep up on this. We need to keep
24 up on this because we had done such a good job during that
25 period and seen a good job and got a pat on the back by the

1 insurance company.

2 I always knew we needed to make sure to do this. I
3 would have a meeting in the office with the foreman and meet
4 with the employees and it would become less formal, if I may
5 say so, but I was trying to get the message out and trying
6 to keep it out there.

7 Q. Did you have any safety meetings, formal safety
8 meetings anymore?

9 A. Yes -- well, actually, yes, to the latter part of
10 2000. I have documented safety meetings and documented
11 meetings with myself along with the loss control, I think,
12 their loss control officers or something like that, whoever
13 these guys are with the company; his name is Mike Magrino.

14 We just received an award for Bradford Marine for
15 2000 because safety had slid to the point, I could really
16 see it. I got a report on the injuries. I get to see that
17 stuff in my position.

18 In early 2000, I said we really need to tighten up
19 again and we did and made a drastic drop because we
20 tightened the reins in the safety department.

21 Q. So if I understand what you're saying, after you
22 implemented the safety program in early 1996 or late 1995,
23 the safety at Bradford decreased significantly at first?

24 A. Yes.

25 Q. And then over a period of a year or a couple of

1 years, things started to fall by the wayside, if I might
2 say?

3 A. Yes.

4 Q. -- then the safety kind of slipped a little bit --

5 A. Yes.

6 Q. -- to the point where in early 2000 you decided
7 something needed to be done again?

8 A. Later in 1999 I started to call Industrial Indemnity
9 and just say, amongst my other duties, this is what I need
10 to do and I need your help here.

11 Insurance companies are always offering their help.
12 Sometimes you don't have time to ask for it. So I took the
13 time to ask for a hand,; which is what we did. We worked
14 hard to get back on track.

15 Q. Let's say in 2000, how many safety meetings did you
16 have?

17 A. We had about six safety meetings in 2000, and I have
18 them documented.

19 Q. That's with employees or foremen?

20 A. That's was employees and foremen.

21 Actual, well, it was mostly foremen; mostly foremen
22 because I felt that the word would get to the departments
23 better, more clearly when I made the foreman responsible for
24 their safety.

25 When I would hold them accountable for their safety,

1 because I felt I couldn't be held accountable for the
2 entire yard, I needed help from them.

3 I explained that to them in a meeting like that. I
4 got the backing from Dave Henderson. We had meetings and
5 sometimes 19 and 20 people were there. It was mandatory to
6 be there. They helped really well and the trickle effect
7 worked in my book.

8 Q. Going back to 1991, when you first started at
9 Bradford, you said a Lon-somebody was the head of the Safety
10 Department?

11 A. No. Lon was in charge of safety before I got there
12 in '95 and he was also the dockmaster at Bradford Marine at
13 the time.

14 Back in 1991, in all honesty I was a mechanic and
15 there wasn't a safety program there in 1991. I was in a
16 different position. So I wasn't privy to management things
17 that were going on.

18 But I don't remember going to a safety meeting in
19 '91.

20 Q. You were in the machine shop?

21 A. Exactly.

22 Q. You were a worker?

23 A. Exactly.

24 Q. And my question is: Do you remember getting called
25 into any safety meetings?

1 A. No.

2 Q. As a machinist?

3 A. No.

4 Q. Do you remember getting an employee handbook when
5 you started back in '91?

6 A. No.

7 Q. Do you remember anybody ever given you any type of
8 O.S.H.A. regulations back in '91?

9 A. In '91, I was a machinist. I was a mechanic but it
10 was in the machine shop. No, I did not and there was
11 different management back then too.

12 Paul Engle was not there and it was a different
13 regime. It was a different Bradford Marine back then
14 entirely.

15 Q. In a number of different respects?

16 A. Yes.

17 Q. One of it was it was less safe?

18 A. Yes. Absolutely. Definitely.

19 Q. It's fair to say though by 1997 this safety program
20 that you had implemented, based on your consultant, was
21 already starting to fall by the way side a little bit?

22 A. In '97?

23 Q. Yes.

24 A. Yes.

25 Q. When -- strike that.

1 When would you say that it hit the bottom point
2 again where you thought something had to be done about it?
3 Did you say it was late '98, '99?

4 A. It was probably - it was probably in, I remember,
5 yes, '99. I was starting to see the change was drastic. I
6 was starting to look at the numbers and really saying, like
7 we need to do something about this and the meaning about the
8 amount of accidents, plus our premiums.

9 I mean, I was proud that we saved \$200,000 the first
10 year in premiums. But suddenly we're \$400,000 over again
11 two or three years later. It was a personal thing. I felt
12 I was failing in that respect.

13 It was always in my mind to clean it up.

14 Q. Let's talk about welders at Bradford Marine today?

15 A. Uh-huh.

16 Q. When you hire a welder to come to work at Bradford
17 Marine, in talking to Dave Henderson earlier today, I
18 understand that you give that person some sort of test?

19 A. Uh-huh. A welding test.

20 Q. What does that consist of?

21 A. That consists of different kinds of metals. A lot
22 of people say they're welders, they might have been given a
23 hood one day and they say they're a welder.

24 They're given a welding test that's classified.
25 Some of the welders do it as A.B.S. welding; which is, which

1 is American Bureau of Shipping.

2 They do the same tests these guys, the American
3 Bureau of Shipping would accept. And they send the tests to
4 a lab to have it destructively tested to see if that welder
5 really knew what he was doing when he welded it.

6 There's different positions and different types of
7 metal.

8 Q. That's what it takes to get A.B.S. qualified,
9 correct?

10 A. Exactly.

11 Q. In order for to you hire a welder they don't have to
12 be up to A.B.S. standards to be hired; but you give that
13 person a test?

14 A. Uh-huh. Yes. Correct.

15 Q. It has the same basic components as the A.B.S. test?

16 A. Yeah.

17 Q. You don't send that out to the lab?

18 A. No, because the foreman of the welding department is
19 really a welder and he knows whether that guy can weld or
20 not.

21 Q. Do you give welders any other tests?

22 A. I don't believe there are any other tests.

23 Q. Do you give them any written tests?

24 A. No, not that I know of.

25 Q. Assuming they pass the test that you give them and

1 they meet the other qualifications and you need welders, do
2 they get hired?

3 A. Sure, as long as they meet the criterium. Not by me
4 or Dave Henderson. The foreman has the discretion to hire
5 the welders.

6 Q. Who is the foreman?

7 A. Harry Rampersad.

8 Q. How do you spell that?

9 A. R-A-M-P-E-R-S-A-D.

10 Q. As far as you know, Mark, has this procedure in
11 terms of hiring welders at Bradford Marine, has that in been
12 effect since 1991?

13 A. No, I don't believe so.

14 Q. How has it changed over the years?

15 A. There's been different foreman in the Welding
16 Department who have different criteria on how they would
17 like to see it done.

18 I don't believe - I don't believe in a time of heavy
19 work that there's a difference. When you need welders and
20 you need welders, the good guys are put right to work.

21 The foreman knows where to put guys. If you've got
22 a guy that puts a piece of metal together and then moves it
23 over, I think -- now the last foreman of the welding
24 department, Jerry Goss, I believe, he started testing.

25 He started that whole thing.

1 Q. When was Jerry Goss the foreman?

2 A. Those dates? I mean, he's been the foreman - he
3 was the foreman for a year or so. He's been gone, I think,
4 for two years or something like that.

5 Q. Let me put it this way: This test that we're taking
6 about that would be the most stringent requirement that's
7 imposed on employees at Bradford; is that fair?

8 A. I would say that's fair.

9 Q. You're saying there have been times in history of
10 the company since 1991 that new employees have been hired
11 with less stringent standards; is that fair?

12 A. Yeah.

13 Q. Do you know sitting here today, Mark, if testing was
14 given to Henry Naranjo before he was hired?

15 A. No.

16 Q. To your knowledge, is that documented anywhere? In
17 other words, does Bradford keep records as to what testing
18 has been given to new employees, new welders?

19 A. Not to my knowledge. Not to my knowledge.

20 Q. All right. And do I take it that there's no
21 particular requirements after somebody is hired as a welder
22 at Bradford Marine to get continuing education or testing?

23 A. There's no requirement, no.

24 Q. Do they do so?

25 A. Personally? I mean, I don't know what you mean by

1 that question.

2 Q. Well, when you say, there's no requirement. Do some
3 welders do that voluntarily, get additional education or
4 schooling?

5 A. Yeah, some people do. Yeah, I've seen that, yes.

6 Q. What have they done? Give me an example.

7 A. Harry, who's now the welding foreman, was taking a
8 naval architecture course to better his career; that's one
9 that sticks out in my mind. He went from a regular employee
10 welder and now he's running the whole show.

11 Some people have more of a plan in their life than
12 others.

13 Q. And maybe my question has not been clear. Maybe it
14 doesn't jive with reality.

15 But my question is: Once a welder is certified to
16 work at Bradford, is there any process from time to time
17 that that welder has to pass certain testing or make sure
18 that welder is competent, do you understand my question?

19 A. I understand. Not that I -- I don't believe so,
20 no.

21 Q. Or is it a situation that once somebody knows how to
22 weld, it's kind of like riding a bike; they know how to
23 weld?

24 A. I believe that's the thought.

25 At Chicago Bridge and Iron, I was tested every six

1 months. We were X-ray Certified welders; although they're
2 not X-ray Certified welders at Bradford Marine.

3 I was tested every six months at Chicago Bridge and
4 Iron. You were tested every six months just to make sure
5 you didn't lose your chops.

6 Q. That's what I'm getting at. There's no retest at
7 Bradford Marine?

8 A. No.

9 Q. My statement is correct?

10 A. Correct.

11 Q. I'm trying to move this along as quickly as I can.

12 There is a term that has come up in connection with
13 this case called a "shipyard competent person", have you
14 heard that term.

15 A. Correct.

16 Q. Are you familiar with that phrase?

17 A. Yes.

18 Q. What does that mean to you?

19 A. A shipyard competent person is the person that would
20 check a confined space. It would be the person - it's a
21 course that you need to do and would he check an area for
22 welding or hot work.

23 Q. Check it for what reason?

24 A. For safety. To see whether it was safe for hot
25 work.

1 Q. What does that mean, generally?

2 A. If there's going to be work done in a vessel, let's
3 say in the engine room, there are certain criteria that
4 needs to be followed to make it safe. The atmosphere for
5 welding. There could be gases there. There could be fluids
6 liquids; combustible.

7 Q. Are you a shipyard competent person?

8 A. Yes.

9 Q. Is anybody else at the yard?

10 A. Harry Rampersad is shipyard competent. At the time
11 of 1996 or '97, if I remember, during the time Henry's
12 accident happened, I believe - I believe the welding foreman
13 back at the time was Tony Watson, if I remember correctly,
14 and he was a shipyard competent person.

15 There are now shipyard competent people in the
16 Frank Pichardo welding Department now competent person and
17 Dale Rampersad.

18 Now, we have two more. Michael Grillo is shipyard
19 competent.

20 Q. Could you spell Frank's last name?

21 A. P-I-C-H-A-R-D-O.

22 Q. Is Frank a welder?

23 A. Yes.

24 Q. But back in 1997, how many shipyard competent
25 person's did you have?

1 A. I believe it was myself and Tony Watson and if - I
2 believe Dave Henderson also. I could be wrong, but I do
3 believe that Dave Henderson was shipyard competent.

4 Q. Do I take it that it would be incumbent on shipyard
5 competent persons to check these spaces that we've been
6 talking about to see if welding could go on?

7 A. Yes.

8 Q. As an example, is a shipyard competent person, is
9 that limited to welding?

10 A. No, it's limited to a confined space. It could be
11 any reason. You don't have to be welding something, working
12 inside a tank and coating the inside of a tank and you need
13 to make sure the entry an egress from the entry into the
14 tank.

15 Q. So a shipyard competent person applies to anything
16 done in a confined space?

17 A. Correct.

18 Q. Whether that's welding, painting or anything?

19 A. Correct. Even just inspections.

20 Q. What is a confined space? How is that defined?

21 A. A confined space is defined by limited access to an
22 area and the actual size, the volume of the area that you're
23 talking about. There are exact terms that right now escape
24 me.

25 Q. Are you familiar, general, with the part of the

1 vessel where this explosion took place with Mr. Naranjo?

2 A. Yes.

3 Q. Would you classify it as a confined space?

4 A. Yes.

5 Q. I do take it then that protocol would have been for
6 a shipyard competent person at Bradford to inspect this
7 space before any type of work would have been done in that
8 particular area?

9 A. Yes.

10 Q. Do you know if that was done?

11 A. No - well, no I take that back actually. Okay. I
12 know that - I know that the space had been, I know that Tony
13 Watson, I believe had seen the area.

14 I did not - I was not informed if the area to be
15 welded, I don't believe, I don't believe Dave Henderson was
16 informed of the area. I shouldn't mention Tony to often.

17 Maybe at the time he wasn't the foreman; maybe has
18 was. I just think he was around the yard at the time.

19 I believe the area where Henry was welding, where we
20 had been welding on that boat, it was a different area of
21 that boat. He had been asked to come in to quick plate the
22 plate for the steering pumps. I believe it was the captain
23 at the time, I believe it was the captain - I'm just trying
24 to remember his name --

25 Q. Bredbeck?

1 A. Yeah, Jack. Don't tell him I said that.

2 So it wasn't really - it wasn't the place that we
3 would normally be working on that boat at the time so --

4 Q. Maybe I'll follow-up with that in a minute. Maybe I
5 can talk about the general situation.

6 Let's suppose one encounters a confined space.

7 A. Uh-huh.

8 Q. That's a yes, you're with me?

9 A. Yes.

10 Q. Who makes a determination in the first instance
11 whether a shipyard competent person has to inspect that
12 confined space?

13 A. I would say the foreman of the welding shop or the
14 safety director.

15 Q. In the case of welding?

16 A. Well, the foreman the welding shop.

17 Q. How about the employee himself? The welder himself?

18 A. Absolutely.

19 Q. So they have a responsibility too. If a foreman is
20 not around, for example, they should go to somebody like
21 yourself?

22 A. Correct.

23 Q. Before working in a confined space?

24 A. Correct.

25 Q. We're talking about a general sense?

1 A. Yes.

2 Q. Let's suppose that happens. Let's suppose that the
3 worker, again I'm taking generally in this case, let's say
4 it's a welder. A welder goes to his foreman and says, I'm
5 going to be working in this confined space.

6 What happens then if the foreman is not a shipyard
7 competent person? What does the foreman do?

8 A. You would find a shipyard competent person to check
9 the area for no gases. If we had a detector at the time of
10 the accident, we did not have a detector back then.

11 If it was a questionable area, we could call marine
12 chemist. We are not chemists. If there's a confined space
13 or explosive atmosphere, we would call in a marine chemist
14 and have that area certified safe for hot work. That's the
15 name of it, certified safe for hot work.

16 Q. Would a shipyard competent person make the
17 determination as to whether a chemist would have to be
18 brought in or not?

19 A. Yes. That's what the shipyard competent person's
20 job would be, to be bring the chemist in because a shipyard
21 competent person could not certify it safe for hot work;
22 only marine chemists can do that.

23 Q. Tell me, do you mean you call a chemist in every
24 instance?

25 A. When it comes to a confined space for welding, yes;

1 within the criteria, within 25 feet of a fuel tank.

2 There's a whole bunch of different criteria.

3 Q. That's what I want to know.

4 Tell me again the criteria for when you bring in or
5 call in a chemist versus when you wouldn't.

6 A. Okay. If we're working on a boat that you're more
7 than 25 feet from, a fuel tank, okay, or an oil tank, you
8 would call a chemist in.

9 If you walked into a engine room and in reality if
10 you follow all the rules, all the O.S.H.A. rules, you have a
11 confined space and the engine room is pretty close to a
12 confined space, as far as getting into the engine room and
13 getting out if there's a fire.

14 For any welding in the engine room, we would have a
15 marine chemist certify that engine room safe for hot work
16 because of the bilge, because of contamination from oils and
17 solvents.

18 The Souvenir was certified safe for hot work.

19 Q. Let's suppose you're not 25 feet from the oil or
20 fuel tank or in the engine room but you encounter, or a
21 welder encounters a confined space. The welder goes to the
22 foreman and the foreman comes to you.

23 Is it necessary to bring in the chemist?

24 A. Not necessarily, no.

25 Q. What would you do then as the shipyard competent

1 person?

2 A. Make an inspection to find out where the fuel tanks
3 are. Find out where the area is and see if there's, like, a
4 risk of explosion.

5 Q. And you do that by one of these multi-gas testers
6 correct?

7 A. Yes.

8 Q. But you said you didn't have one back in July 1997,
9 correct. Do you have one today?

10 A. Yes, Sir.

11 Q. How many do you have?

12 A. We have two; one in the Bahamas yard and one here.

13 Q. Dave Henderson said they're a couple of hundred
14 bucks?

15 A. No, they're \$2,500 dollars.

16 Q. Twenty-five hundred dollars. But they're relatively
17 small to hold in your hand?

18 A. Yes, Sir.

19 Q. And you can read the results, they come out fairly
20 quickly?

21 A. Yes.

22 Q. They're not difficult to use, are they?

23 A. No, Sir, not when you're trained to use them. Not
24 when you're trained to use them. The shipyard competent
25 persons are the ones who should be using them.

1 Q. There were shipyard competent person's at Bradford
2 Marine in July of 1997, correct?

3 A. Yes.

4 Q. But there were no multi-gas testers?

5 A. Correct.

6 Q. Okay. So let's continue on with our hypothetical
7 example here.

8 Let's suppose you're brought in as a shipyard
9 competent person to check on a confined area. The first
10 thing you're doing is trying to do find out the location,
11 whether it's close to a fuel tank or something like that.

12 A. Yes.

13 Q. In essence, you're making a determination whether
14 you need a chemist or not?

15 A. Correct.

16 Q. Let's suppose you do not need a chemist, are you
17 with me?

18 A. Yes.

19 Q. Now, you do what? You check to see if any gases are
20 present?

21 A. You would, yes.

22 Q. You do that with your multi-gas tester?

23 A. If you have one, yes.

24 Q. You have one. I'm talking about today?

25 A. Yeah.

1 Q. Let's suppose that you determine that there are
2 gases present that are combustible, flammable or ignitable.
3 What do you do? What is the protocol?

4 A. The protocol is: If there's gases present, the
5 protocol is to call a marine chemist. He will come down and
6 he'll then give you what can be done.

7 In some cases it's called he purges the area with a
8 C.O.₂, purges into the area from a bottle with a cylinder
9 under the marine chemist's direction and under the marine
10 chemist's eye. He'll watch what's going on.

11 Q. It's under his supervision?

12 A. It's under his supervision, the marine chemist.

13 Then he'll certify it safe for hot work and how
14 you're going to purge it. He'll inspect the way that you're
15 purging the area and he'll check the area with his detector,
16 gas detector, before he'll allow you to weld.

17 Q. Is there a certain amount of time -- strike that.

18 Let's suppose that the chemist certifies the area
19 safe for hot work. Is there a certain amount of time that
20 the work has to be completed?

21 A. Yes -- well, no.

22 No, there's not a certain amount of the time. But
23 if the boat moves, if the vessel is shifted or if the
24 atmosphere changes, if anything changes in about it, you
25 could weld all day and night but with a marine certificate

1 if something changes though, meaning recontamination or for
2 some reason you needed to move the vessel from one place to
3 another, that certificate is void and you need to do a
4 reorganization.

5 Q. I'm going to show you, Mark, something that has been
6 marked as Exhibit Number 11?

7 A. Uh-huh.

8 Q. Are you with me?

9 A. Yes.

10 Q. Do you see that in front of you?

11 A. Yes.

12 Q. Is this the certificate that you're talking about?

13 A. It looks somewhat like it. It's not the exact one
14 that I normally see.

15 Q. Is this something similar to it though?

16 A. Yes.

17 Q. And this is hung up on the wall or something?

18 A. Yes.

19 Q. In the confined area?

20 A. In an easily visual area on the vessel so people can
21 easily see it.

22 Q. And what you're saying is once that's up on the
23 wall, assuming that the conditions haven't changed or the
24 boat hasn't been moved, there is no minimum amount of time
25 or maximum amount of time in which the work has to be

1 completed?

2 A. Correct.

3 Q. Now, why didn't Bradford have a multi-gas tester
4 back in July of 1997, if you know?

5 A. I don't really know.

6 Q. Well, certainly you had paid good money to have a
7 consultant, right?

8 A. Yes. I believe I had asked to buy one. I was told
9 that we were going to have a marine chemist to take care of
10 the hot work situation; that's why we didn't buy one at the
11 time.

12 Q. And the marine chemist was Mr. Rumell. Is there --
13 you as the Director or Head of the Safety Department
14 appreciated the need for having a multi-gas tester; is that
15 a fair statement?

16 A. Yes.

17 Q. And you asked for one?

18 A. Yes.

19 Q. And they're response, someone's response was, well,
20 we've got a marine chemist for that?

21 A. Yes.

22 Q. The marine chemist is Peter Rumell?

23 A. Yes.

24 Q. When did you request the multi-gas tester?

25 A. Not long after I was crowned Bradford Marine Safety

1 Director.

2 Q. And that was before the accident which forms the
3 basis of this case?

4 A. Yes.

5 Q. Mr. Rumell, is he actually employed by Bradford
6 Marine?

7 A. No.

8 Q. He's an independent contractor?

9 A. Yes.

10 Q. The space wherein this accident occurred on the
11 Souvenir, you said earlier you thought it was a confined
12 area?

13 A. Yes.

14 Q. Do you know, Mark, if that area had been inspected
15 by a shipyard competent person?

16 A. No.

17 Q. You don't know?

18 A. I don't know. I don't believe it had.

19 Q. What makes you say that?

20 A. Because I did the accident investigation.

21 Q. And your accident investigation revealed what?

22 A. In particular, that in that particular area, I don't
23 know how to answer that.

24 What's the question. Tell me what the question was
25 again, please.

1 Q. Sure. And I'm just trying to get at: You did an
2 accident investigation after this accident, correct?

3 A. Correct.

4 Q. And you did so, I assume, as the Head of the Safety
5 Department?

6 A. Yes.

7 Q. And I assume that you went around and interviewed
8 various people and found out what happened?

9 A. Yeah.

10 Q. You weren't there?

11 A. I was in the yard, I wasn't on board the vessel. I
12 was in the front office actually.

13 Q. So you didn't observe the accident happened?

14 A. No.

15 Q. Everything that you know about this accident came
16 through other people?

17 A. Yes.

18 Q. Including Henry Naranjo?

19 A. Yes.

20 Q. You did have an opportunity to talk to him?

21 A. Not in depth, but yes, I spoke with Henry after the
22 accident. I interviewed him like I interviewed the other
23 people.

24 Q. Did you actually prepare a report based on your
25 investigation?

1 A. Yes.

2 Q. I'm talking about now, other than your actual
3 statement - you gave a statement, true?

4 A. Yes, I did.

5 Q. But did you prepare a separate report concerning
6 your findings?

7 A. I did an accident report which was for the Insurance
8 Company, I believe that's it or are you calling my
9 statement, my report, or -- I mean--

10 Q. That's the nature of my question. I have your
11 statement. It's about a paragraph long. I'll talk to you
12 about that in a moment.

13 But did you prepare any documents, other than your
14 statement, as a part of your investigation?

15 A. Yes, I prepared other people's statements. I put
16 the entire report together.

17 Q. I got you.

18 A. That's what I believe I'm saying is my report.

19 Q. You probably took some photos?

20 A. Yes.

21 Q. As a part of your investigation though I take it you
22 came to the conclusion that this space had not been viewed
23 by a shipyard competent person prior to the welding that had
24 been done by Mr. Naranjo?

25 A. Correct.

1 Q. Had the space been inspected by Mr. Rumell or any
2 other marine chemist prior to the accident?

3 A. That particular space, no.

4 Q. Now, Mr. Naranjo told us yesterday that he was hired
5 at Bradford Marine back in 1992?

6 A. Okay.

7 Q. This accident happened in July of 1997. So you
8 assume that he was an employee there when you were, when you
9 came on board in 1995 and got the Safety Program up and
10 running again; is that a fair statement?

11 A. Yes.

12 Q. He would have been part of the safety meetings that
13 you had implemented in late 1995 or '96?

14 A. Yes.

15 Q. Do you know Mr. Naranjo?

16 A. Yes.

17 Q. The word has been that he's a good worker?

18 A. Absolutely.

19 Q. I assume that he took his job seriously?

20 A. Yes.

21 Q. And he took safety seriously?

22 A. Definitely. He was one of the better employees that
23 we've ever had there, as far as his ability and his
24 attitude.

25 Q. Also, I assume that he understood protocol about

1 consulting with his foreman about any questions that he
2 might have?

3 A. Yes.

4 Q. I take it you've seen him do that in the past?

5 A. I wouldn't say that, I wouldn't say that I have seen
6 him do it. It certainly wouldn't surprise me if he had done
7 it.

8 Q. You don't have any reason to believe that he was
9 unaware that he should go and talk to his foreman if he had
10 any concerns?

11 A. If he had any concerns? No, not at all.

12 Q. Or to talk to somebody like yourself?

13 A. No.

14 Q. You would agree with me that would have been
15 something that he should have done?

16 MR. FAMULARI: Object to the form.

17 BY MR. WEBER:

18 Q. Go ahead and answer.

19 A. If he had a question, if he had a doubt; sure.

20 Q. Are you confident, Mark, that all welders in the
21 yard understood what confined areas were, was that explained
22 to them? Was it explained to Henry?

23 A. No, because of the turnover of employees and the way
24 everything that happened, I can't say that I explained that
25 to him, no.

1 Q. Because there may have been some welders as an
2 example, that came on board after your initial safety
3 meetings?

4 A. Yes.

5 Q. But if Mr. Naranjo started in 1992 --

6 A. Yes.

7 Q. -- and worked continually until July of 1997, are
8 you confident that somewhere along the line it would have
9 been explained to him, as a welder, what a confined area is?

10 A. Yes.

11 Q. How would that have happened?

12 A. That would have happened with the entire yard
13 meeting that we had because when I did those meetings,
14 bringing all the yard in, when I would go over the big
15 picture of the safety and how we were implementing safety at
16 Bradford Marine, then as the meeting would go on - the
17 meetings were an hour long - as the meeting would go on,
18 that was where I came in with the safety consultant, and I
19 kind of geared the meeting toward that group of individuals.

20 We started out with the big picture, like big
21 folder. Then we got down to the nitty gritty. Like the
22 painters, now in your department you need to consider a mask
23 and welders need to consider hot work for instance.

24 Q. I don't know this but I assume that on the scale of
25 jobs in a boat yard such as Bradford Marine that welding

1 potentially is one of the more dangerous jobs?

2 A. Yes.

3 Q. You would agree with that?

4 A. Yes.

5 Q. I would assume it's extremely difficult for you as
6 the Director of the Safety Department to explain to welders
7 what a confined area is?

8 A. Yes.

9 Q. That's because you have danger associated with
10 welding in a confined area, true?

11 A. True.

12 Q. And you have already told me that's it's the
13 responsibility of the welder to ask questions if he has any
14 concerns about the area in which he going to be welding?

15 A. Yes. I actually stopped a job once that was going
16 to be done because a welder came to me and asked me to go
17 look at a job.

18 I went to the boat and to my dismay, I cancelled the
19 job on the boat. Instead of going in from the top, we had
20 to let the captain of the vessel know, to let the owner know
21 that we were not going in there because it's a confined
22 space and a dangerous spot to cut an access into a vessel.
23 It was hulled out.

24 It was going to cost, whatever, \$10,000 or more but
25 that's the only way we were going to be able to do the job

1 because that was the right and safe way to do it.

2 The employee did not feel comfortable doing it. I
3 didn't feel comfortable sending an employee in there and the
4 other negative feelings, and having to control that
5 situation and personally for me, personally when it comes to
6 production, the production facility was put out. The window
7 - we stopped that job and it was important and we feel it's
8 important.

9 Q. That was an instance that an employee actually came
10 to you?

11 A. Exactly. The employee came to me and told me to go
12 to a job and came into my office knowing that he could come
13 to me and ask and say, please, at least have a look at this.

14 When I had a look at it, I agreed. I said, it's not
15 a way to do it. You need to go in a different angle.

16 Q. The employee in this instance was whom?

17 A. One of the transient welders, yeah. His name - I
18 don't remember his name. I don't remember his name. I'm
19 sure I could find it out. It was a couple years ago. It
20 was few years ago when this happened. It was something that
21 actually happened. I bring it up to say we were serious
22 about what we were doing.

23 Q. Did that happen before or after the accident with
24 Mr. Naranjo?

25 A. That was after the accident.

1 Q. In that instance, was that employee directed to do a
2 job by the foreman?

3 A. Correct.

4 Q. Isn't that the typical case where a welder will be
5 told to do a job by the foreman?

6 A. Yes.

7 Q. In your opinion as the Safety Director at Bradford
8 Marine, and based upon your experience, is it ever excusable
9 for an employee, such as a welder, to simply, to let's say,
10 follow the advice of somebody else other than the foreman
11 without doing any independent investigation himself?

12 A. In what - in what respect? On how to do a
13 particular job?

14 Q. Sure. Let's say the captain says, Mr. Welder, I
15 want you to do this.

16 A. Yes. That's fine and it's not inexcusable.

17 Q. And does that happen from time to time?

18 A. Yes.

19 Q. Where the captain will actually direct certain
20 employees to do certain tasks?

21 A. Yes, all the time.

22 Q. That happens a lot?

23 A. A lot.

24 Q. And does the employee have to go and tell a foreman
25 about that?

1 A. If what the captain is asking him to do is going to
2 run into more money or if it's a quote job, when it comes to
3 money; if we quoted it one particular way to do the job and
4 the captain says, no, I want this done this way; well, then,
5 that employee should go to the foreman and most likely would
6 go to the foreman to just say, well, listen the captain is
7 telling me to do it this way.

8 But when you're on the vessel, you, the employee,
9 should always go to the foreman although when you're in
10 close quarters with the person who's running the vessel and
11 it's his kingdom and he says, I want to you do it this way;
12 the employee is going to do it that way as long as he deems
13 it safe or -- it's not like we have -- not every time is the
14 employee instructed to say, sorry, captain, I'm not going to
15 do it this way. We all have to get off the boat and find
16 my foreman.

17 Q. I understand that but you said something there that
18 I want to follow-up on.

19 It's okay as long as the employee deems it safe,
20 correct?

21 A. Yes.

22 Q. The employee still has the responsibility of making
23 sure or making that determination, does he not?

24 A. Yes.

25 Q. No matter what anybody says, a captain, or the owner

1 or the man on the moon, in every instance that employee has
2 to make a determination as to whether or not the task
3 requested of him is safe, true?

4 A. True.

5 Q. This whole business about checking confined spaces;
6 recognizing what is a confined space and going and getting a
7 shipyard competent person; no matter what anybody else says,
8 whether it's the captain or the owner, doesn't negate the
9 duty that you have as a particular employee of following
10 protocol, does it?

11 A. No.

12 Q. My statement is correct?

13 A. Correct.

14 Q. Doesn't the yard have an interest in keeping track
15 of job numbers and so on?

16 A. Yes.

17 Q. So, I mean, what if a welder is walking the deck and
18 the owner calls him and says, I want to you do X, Y, or Z.,
19 it has no job number or anything else.

20 Are you saying it happens all the time, that welders
21 are doing it?

22 A. That's not what I mean when I say it happens all the
23 time. I mean, it happens that the captain or engineer will
24 direct you on how they want you to you do a particular job
25 because a lot of the time it's their vessel; they feel close

1 to it.

2 It's not like a commercial vessel. It's a private
3 vessel and they live on it. It's their home and they might
4 direct you on particular way, how to do a particular job.

5 Yes, in the event that sometimes they will be on
6 there and they would say, quick, run and tack this down in
7 place.

8 It's done and put on the same work order number. It
9 can be billed anyways.

10 Q. Early on in this deposition you paraphrased what you
11 thought Henry was doing right before this accident.

12 What is your understanding of what he was doing?

13 A. Henry was tacking a base plate about a half an inch,
14 aluminum base plate; tacking it to the deck in the lazarette
15 for the steering pumps.

16 Q. How was it that he was performing that particular
17 task at that point in time; what's your understanding?

18 A. My understanding is that he was installing the
19 steering pumps and had the captain asked Bradford Marine to
20 tack the base plate in the lazarette so he could mount the
21 plates on the steering plate.

22 I believe the captain asked Henry to take care of
23 the job. I don't remember if there was an actual job
24 number written at that moment in time, I don't remember.

25 Q. We've identified here in this deposition, Mr.

1 Henderson identified this, what I'm showing you that has
2 been marked as Exhibit 8. This was job 99.

3 Does that square with your knowledge?

4 A. Yeah - no, not that - that's not the job.

5 Q. That's not?

6 A. That's not the job. I'm sure that's not job.

7 Q. Why are you sure?

8 A. Because the description of the job is not the job
9 that Henry was doing. Henry was putting steering pump base
10 plates on. He not installing brackets for a tool box. The
11 tool box was in the engine room not the lazarette.

12 Q. Tell me again. I'm sorry. Somebody wanted to put
13 steering pumps in this particular location. Who wanted do
14 that, do you know?

15 A. The captain, I mean, the owner of the boat wanted
16 steering pumps on. The captain is there to make sure the
17 new steering pumps go in. The guy that they hired to do it
18 who was Bruce Atkinson.

19 I think it was company called Bruce Atkinson Marine,
20 something like that. As far as who wanted to put them in
21 there; the owner wanted them in there or the captain wanted
22 them in there.

23 They Bruce Atkinson to put them in there. I believe
24 that Bruce asked the captain to have Bradford Marine or
25 Henry tack this plate. He was going to bolt them down. If

1 I remember correctly, he was going to bolt them down and he
2 couldn't put his hand underneath to put his hand on the bolt
3 togs, where he wanted put the steering pump plate.

4 I'll show you in these photographs what I'm talking
5 about. The idea was to get the plate made up and welded and
6 then the plate was thick enough at that point to bolt it to
7 the plate. There was a deck that wasn't thick enough.

8 Q. Do you remember anything about the deck not being
9 thick enough to actually support these pumps?

10 A. I don't know if it wasn't. In my opinion, in my
11 professional opinion, the deck, I wouldn't have mounted
12 pumps on that deck. I would have put a decking plate, which
13 is exactly what was being done.

14 Q. Why was that, it seemed to thin?

15 A. Like it wasn't solid mounting. Hydraulic steering
16 pumps are heavy and going into the stern of the boat.
17 They're going to work the steering of the vessel, you know,
18 like that. They've got to work the hydraulics.

19 Q. Did your investigation reveal any holes that were
20 drilled in the deck --

21 First of all, do you know if it was tried without
22 the plate first?

23 A. I believe more than one hole was drilled and that's
24 when they realized the deck was too thin. I believe there
25 was a hole drilled.

1 Q. So that's when the idea of the plates came about?

2 A. Correct.

3 Q. Now, is it possible that Mr. Naranjo was sent on
4 this mission to do this without a work order being produced?

5 A. It's very possible.

6 Q. Does that happen?

7 A. That happens from time to time. Henry, people
8 wanted Henry, they didn't want anybody but Henry working on
9 their boat. He was well respected. A lot of people only
10 wanted Henry on their boat. He dressed well. He presented
11 well and worked very hard. He was a very good welder and
12 respectful, so who wouldn't want him on their boat?

13 He was doing work on their boat. He was pretty much
14 the guy on this boat.

15 The possibility of him working on the mast, he may
16 have been doing something on the mast with his equipment on
17 board the boat. Maybe they said, can you come quick and
18 tack this plate and that's probably what happened. I'm
19 saying "probably", but the chance of there not being a work
20 order written for that job is good and I don't remember one
21 and I'm trying to remember a lot of things about this case,
22 and I don't remember seeing a work order for this job.

23 Q. And you don't believe that Mr. Rumell went to this
24 particular space and inspected it?

25 A. No.

1 Q. My statement is correct?

2 A. Correct.

3 Q. If I understand this the deck that he was welding
4 this plate to was an aluminum deck?

5 A. Correct.

6 Q. Obviously, Mark, an explosion occurred. Do you have
7 any idea, sitting here today, why that explosion occurred?

8 A. No.

9 Q. Have you ever seen anything like that?

10 A. Not like that.

11 Q. I.E.: A deck actually buckling and exploding like
12 this?

13 A. I've seen damage in explosions before, yes. Yes,
14 I've seen damage from explosions. An explosion like this
15 that has no, has no - it seems there was no heat when it
16 exploded. It was like - it was like, I mean, I would
17 imagine there would be some or that I would see some kind of
18 soot or burn mark or something where the explosion happened
19 to show there was flammable substance.

20 Q. Do you know what flammable substance ignited here?

21 A. No.

22 Q. Did your investigation reveal what that might have
23 been?

24 A. My investigation revealed zero.

25 Q. Do you know any investigation that revealed anything

1 along those lines?

2 A. I know that I called Peter Rumell in to do an
3 investigation of the area. His investigation revealed
4 nothing of any substance at that time, although there is
5 speculation of what it could have been and it blew itself
6 out, like dead marine growth or something like that; which
7 is not that far fetched.

8 Q. It isn't?

9 A. No, it happens in rub rails.

10 Q. In what?

11 A. In rub rails, on the side of a vessel. If there's a
12 leak on the rub rail side of a vessel, that's an enclosed
13 space and it's been known to happen that salt water gets
14 there and the salt water acts to affect some kind of marine
15 growth. It could produce methane, flammable gas.

16 I know of that by going to competent person
17 training.

18 Q. That has actually resulted in explosions?

19 A. In rub rails, yes, methane gas is very flammable.

20 Q. Is it your understanding that there was a space? Do
21 you understand that there was apparently poured cement in
22 the bottom of this boat?

23 A. Yes.

24 Q. That there was a space between the top of the poured
25 cement and the aluminum deck?

1 A. Yes, a small void between that area, yes. It is
2 known now. I wasn't aware of that before. Obviously it's
3 because of my investigation that I know that.

4 Q. You weren't aware of that beforehand?

5 A. No.

6 Q. In the course of doing the work for Mr. Smith, did
7 you ever get any blueprints for this boat?

8 A. No.

9 Q. Were you the appointed guardian in terms of
10 arranging this whole job and meeting with Mr. Smith?

11 A. I was the yard appointed project manager, the
12 liaison between the owner and the captain.

13 Q. Are there circumstances where you will get
14 blueprints for boats?

15 A. Yes.

16 Q. What circumstances will you get blueprints for
17 boats?

18 A. To find tankage. To find out where tankage areas
19 are. To find out where the wires run. We get blueprints
20 to see what's behind walls, bulk heads, numerous reasons,
21 behind closets, where pipe work runs.

22 Q. And it's your testimony that you didn't see the need
23 to get any blueprints for this project?

24 A. No.

25 Q. You did not?

1 A. No, we did not.

2 Q. All right. Based on your understanding today of
3 the space between the top of the cement and the aluminum
4 deck, do you have an opinion, as somebody who has welded
5 over the years, as to whether the welding gun must have
6 penetrated the aluminum deck?

7 A. I believe that's what happened, yes. I believe it
8 blew a hole in the deck. The deck was a light deck.

9 Q. How thick was the deck?

10 A. I don't know how thick it was. I'll take a guess.
11 If I was going to guess, I don't know if you want me to
12 guess or anything?

13 Q. I don't want you to guess, but that's obviously not
14 the goal of a welder, to actually penetrate through the
15 aluminum deck, is it?

16 A. No, not at all.

17 Q. Nevertheless, based upon your experience in the
18 welding profession that would be your opinion as to what
19 happened here?

20 A. I believe that's what happened

21 DIRECT EXAMINATION

22 BY MR. KALLEN:

23 Q. Let me jump in here, if you don't mind?

24 I'll follow-up where you left off. And I'll take
25 you back to your welding years and perhaps any knowledge

1 that have you gained since then relative to welding.

2 Henry testified that he understood the aluminum deck
3 was a 1/4 inch thick.

4 A. Okay.

5 Q. He had been requested to fabricate two aluminum
6 plates; 3/4 inches each?

7 A. Okay.

8 Q. He set the amperage, if you will, of the torch at
9 150; so basically that's fifty percent?

10 MR. FAMULARI: No.

11 BY MR. KALLEN:

12 Q. Sorry. Do you have any opinion one way or the other
13 if that would be insufficient or inappropriate or
14 appropriate amperage?

15 A. For a 1/4 inch; I don't believe that plate was a 1/4
16 inch, I believe it was less than that.

17 Q. That's based upon your speculation or based upon
18 what you recall to be the width of that plate after your
19 investigation?

20 A. Yeah. I saw the plate and when I said I was going
21 to guess, I would have said a range between 3/16ths of an
22 inch; 1/8th to 3/16th's, which is less than a quarter, you
23 know.

24 Q. If Henry had been requested to fabricate two
25 aluminum plates which were to be utilized to lend support to

1 the hydraulic pumps, is that - does that justify a work
2 order?

3 A. Yes. Yes, it justifies a work order, yes.

4 Q. I mean, that's not that they just tack something;
5 here you're fabricating to an aluminum plate?

6 A. Correct.

7 Q. If Henry also testified that when he arrived at work
8 that morning Mr. Watson told him what his job would be that
9 day, which included this particular job that he was doing at
10 the time of the explosion, would that tell you that at least
11 prior to the explosion if Mr. Watson was aware of what was
12 going to take place in the lazarette?

13 A. Yes.

14 Q. And given the fact that this was a confined space,
15 in your opinion anyway, knowing that a welding job was going
16 to be conducted in there, would that have called for a
17 shipyard competent person to conduct an inspection for him?

18 A. That would have called for an inspection, yes.

19 Q. Henry should have known that, right?

20 A. Yes.

21 Q. When you were asked questions about, well, if a
22 welder, or any employee for that matter, has a question or
23 concern about whether to do a job or whether he should do it
24 in such a way as instructed; he should ask his foreman?

25 A. Yes.

1 Q. I take it the person that he should ask or the
2 appropriate person he should ask is his foreman?

3 A. Yes, the next in chain of command.

4 Q. Sure. If he can't find the foreman, he could look
5 for you?

6 A. Correct.

7 Q. Or the assistant foreman?

8 A. Exactly.

9 Q. He shouldn't rely on what the captain tells him, if
10 he says it's safe?

11 A. He shouldn't rely on what the captain says if he
12 says it's safe.

13 Q. Yeah. In lieu of that he should ask his foreman if
14 he has safety questions?

15 A. Yeah, if it's a safety questions, he should talk to
16 his foreman.

17 Q. A safety question would include whether or not
18 there's the possibly presence of flammable, ignitable vapors
19 or gas fumes in the space you're utilizing; would you agree?

20 A. Yes.

21 Q. Were you part of the project team that put together
22 the bid for this project?

23 A. I coordinated getting the bids together, following
24 up on everybody to make sure it was okay. I did not write
25 any bids.

1 Q. Did you ever deal with Stephen Smith?

2 A. Yes.

3 Q. Did you meet with him actually?

4 A. Yes.

5 Q. Nice guy?

6 A. Very nice guy.

7 Q. This was at the outset of the project or during the
8 course of the project?

9 A. During the course of the project. I don't go
10 through dinner with him. I knew him through the boat
11 vessel, through Jack.

12 Q. Basically, if something came up on a daily basis,
13 Captain Jack was there?

14 A. Correct. I would deal directly with Captain Jack.

15 Q. When a project like this starts, in particular if a
16 captain or owner who has never been in at Bradford, so they
17 don't know the Bradford protocol, is something explained to
18 the captain and the owner as far as how Bradford likes to
19 see things done; that if the captain has a question or has a
20 request he should go to certain people as opposed to other
21 people?

22 A. Yes.

23 Q. What is explained to the captain at the outset of
24 the project as far as that's concerned?

25 A. Well, you mean if they need work to be done? They

1 have to see either the project manager. Bradford Marine
2 doesn't have but two project managers and the foreman; so I
3 mean, he either sees the project manager or the foreman.

4 Q. Of that department?

5 A. Of that department.

6 Q. For example, if the captain one day, out-of-blue
7 decides, you know what, I want this other thing welded,
8 which wasn't in the original contract or original plans; he
9 knows that he should address that questions to the foreman
10 of the welding department?

11 A. He knows that's the right thing to do.

12 Q. Other than O.S.H.A. regulations in your position as
13 Safety Director, are you also familiar with the N.F.P.A.
14 guidelines?

15 A. Yes, I'm familiar with them. I could not tell what
16 you they are, but yes.

17 Q. I wouldn't ask you to cite them chapter and verse
18 but you're aware N.F.P.A. guidelines relative to welding?

19 A. Yes, sir.

20 Q. Were these N.F.P.A. guidelines incorporated into the
21 --

22 A. Safety program?

23 Q. Yes, the Safety Program?

24 A. Yes.

25 Q. This employee manual that was handed out which you

1 had some safety committee discussions about it, was that
2 handed out to all existing employees when it was created?

3 A. All existing employees at the time and for a period
4 of time after that. All new employees for a period of time,
5 they had to sign a piece of paper - sorry - to say that they
6 had received it.

7 Q. So assuming this employee manual was created and
8 generated and distributed some time in '96, Mr. Naranjo was
9 certainly employed there, then he would have received one?

10 A. Yes.

11 Q. Now, was the safety book that was handed out to each
12 individual department, was that updated after '96?

13 A. No.

14 Q. So just like three-ring safety manual, there were no
15 updates were made?

16 A. Correct.

17 Q. Did you, as Safety Director, notwithstanding the
18 fact that these manuals were not updated, subscribe or
19 otherwise receive any O.S.H.A. materials from time to time?

20 A. I would receive O.S.H.A. materials from time to time
21 from free business and legal reports and companies that send
22 it you when they know you're the title of Safety Director.
23 Somehow you wind up on a list that everybody has.

24 Q. Did you speak about it with Captain Jack after this
25 accident about what happened?

1 A. Yes.

2 Q. What did he tell you?

3 A. Without reading my statement that I got from him, I
4 don't really remember exactly.

5 Q. We may have the statement?

6 MR. WEBER: That's your statement?

7 BY MR. KALLEN:

8 Q. Mr. Weber is handing you a copy of your statement.

9 A. This is my statement.

10 Q. Did you actually get a written statement from
11 Captain Jack?

12 A. I think so. I think, if I remember rightly, I did.

13 Q. I haven't seen one. Has anyone here seen one?

14 A. Yeah.

15 MR. WEBER: Yeah, it's in there.

16 THE WITNESS: I didn't know if I was able to flip
17 threw it.

18 MR. WEBER: Right here.

19 MR. KALLEN: Where?

20 MR. WEBER: Well, this is July 10th.

21 BY MR. KALLEN:

22 Q. From Rick Roughin?

23 A. Rowen.

24 MR. WEBER: You're right. You're right.

25 BY MR. KALLEN:

1 Q. In any event --

2 A. I took statements from three or four.

3 Q. Some of the crew?

4 A. And maybe Gerber.

5 Q. Moving along, Mark, sitting here today, do you have
6 any independent recollection of what Captain Jack told you
7 about the accident?

8 A. My recollection right at this moment is that Jack
9 had asked or that Bruce Atkinson had asked Captain Jack,
10 Bruce Atkinson being the guy putting the pump in, if he
11 could get these plates.

12 I don't remember at this moment if they were
13 fabricated by us. I don't know if they were handed over. I
14 don't know if they were fabricated by us.

15 Q. I understand.

16 A. All I know is that they needed to be welded into
17 place in the lazarette.

18 Q. That's your recollection as to what Jack told you?

19 A. Yes, as to what Jack told me.

20 Q. Do you know, or otherwise remember, when that
21 request was made, whether it was the day of the explosion or
22 the day before?

23 A. No, I don't remember that.

24 Q. Is there any documents that you think you can review
25 which would refresh your recollection as to what Captain

1 Jack told you about the circumstances of the accident?

2 Can you think of any documents that may refresh your
3 recollection?

4 A. No, just my statement. I haven't read my statement
5 for a year.

6 MR. WEBER: Do you want to read your statement?

7 BY MR. KALLEN:

8 Q. Go ahead since we've referred to it so many times
9 today and we'll mark that as the next numbered deposition
10 exhibit, whatever that may be.

11 A. That didn't do anything. I don't remember if Jack
12 was there that day.

13 Q. Mark, is there any document that you can look at to
14 refresh your recollection as to what Captain Jack told you
15 about circumstances of the accident?

16 A. A document?

17 Q. Yes.

18 A. I have a file that thick (indicating) at Bradford
19 Marine.

20 Q. What is that file called?

21 A. "Souvenir". It's that stuff, you know, I mean,
22 these are copies of that file, different things. I mean, I
23 didn't get a chance to flip through that before I came
24 today, but I can tell you right now that's one thing that
25 would spark my memory of what Jack Bredbeck told me.

1 Q. That's fine. Now you referred to a photograph
2 before. So I take it at some point after the explosion
3 leading up to today you have had the opportunity to see the
4 photographs?

5 A. Sure, I took the photographs.

6 Q. You took the photographs?

7 A. I took the photographs, yes. There may be some
8 photographs here that I didn't take, but I did take
9 photographs.

10 Q. I'm sure there are. Do you know how many
11 photographs that you took?

12 A. I would imagine approximately 12 photographs.

13 Q. Was this taken -- when were these photographs taken?

14 A. The day of the accident.

15 Q. The day of?

16 A. Yeah, the day of the accident.

17 Q. Now, I have a been provided photographs by Henry's
18 attorney. I don't know where he got them?

19 MR FAMULARI: I think we got them from Bradford.

20 BY MR. KALLEN:

21 Q. From Bradford. I'll show you a number of
22 photographs. You may be able to tell if there's ones that
23 you took or not.

24 For the record, I have eleven pages of photographs
25 with two photographs on each page.

1 We'll mark these next, entitled photographs, start
2 at 13 and going up.

3 The first question I'll ask you are these the
4 photographs that you took (indicating)?

5 A. I don't think so. I don't think these were the
6 ones.

7 Q. You don't think so?

8 A. I don't think these are the photos that I took.

9 Q. Let me ask you: Do have copy of the photos that you
10 took in the Souvenir file anywhere or in any file?

11 A. I should have. We've given stuff to lawyers. I
12 imagine we have pictures or photographs. I don't believe
13 these are mine (indicating).

14 Q. Let me ask you this: Do you have your own Souvenir
15 file as opposed to Bradford?

16 A. No. Bradford has all my stuff. When I say, "mine",
17 I mean Bradford.

18 Q. In any event, let's look at the photographs.
19 There's a blower machine in there, isn't there?

20 A. Yeah, it's called a "CAT Blower".

21 Q. And the purpose of that is to?

22 A. Ventilation.

23 Q. To Dissipate the smoke that's generated from the
24 welding?

25 A. Correct. It also has power outlet on it.

1 Q. Oh, really.

2 A. It has a power outlet you could plug something into;
3 a light or something like that.

4 Q. How is that blower powered? Is it electrical?

5 A. Yes.

6 Q. Is that marine grade?

7 MR. WEBER: Marine grade, what do you mean?

8 BY MR. KALLEN:

9 Q. Could that ignite a spark that's flammable?

10 A. It's non-explosive proof. It's non-explosive proof.

11 Q. Anyway, I guess my next question was going to be
12 that blower is not utilized for purposes of detecting
13 flammable vapors, fumes or gases, correct?

14 A. No.

15 Q. I just want to make sure.

16 You said an aluminum plate was going to be welded or
17 was in the process of being welded onto the deck?

18 A. Yes.

19 Q. Now, there appears to be some stuff sticking out at
20 the top of it, around the corners?

21 A. Yes.

22 Q. What would you say these things are? Because I'm
23 not a welder, I don't know what these things are.

24 A. They're bolts. They're mounting bolts that they
25 were going to mount the pumps to.

1 Q. Assuming there was no explosion, those bolts would
2 have been drilled through the plate, through the deck, if
3 you know I'm trying to get at, in this picture (indicating)?

4 A. No. These bolts would have been drilled. These
5 bolt holes would have been drilled in the plate and it's
6 been threaded. That was the whole idea, for the plate -
7 from what I heard - it was a thicker plate and they needed
8 to bolt something with metal to the deck. It wasn't thick
9 enough to do heavy duty bolt, that's why they're standing
10 up, they're threaded in.

11 Q. These bolts that are sticking out the top of the
12 aluminum plate, that's what the pump was going to sit on,
13 these bolts?

14 A. No, the pump was going to sit on the plate and the
15 bolts were going to be used tighten the pump. The base of
16 the pump has a flange and it has four holes. This thin
17 flange, that was going to sit on top of the metal plate and
18 use the threads to put into the plate as a fastening system.

19 Q. And for the record, that Page is 13-A. The
20 photograph that you have been describing is the first one on
21 the Page at the top.

22 When you went on board the boat, in specific the
23 lazarette for inspection, did you see a hole on the deck not
24 from the explosion but from drilling or some other source?

25 A. I think I remember seeing a drill hole. I remember

1 seeing a burn hole that blew through the deck with the
2 welding, I remember seeing that.

3 Q. And that burn hole, from what you believe, could it
4 have been from the welding?

5 A. Correct.

6 Q. Was it all the way through the deck itself?

7 A. Yes.

8 Q. And the drilled holes, hole or holes, that you saw,
9 were they in the approximate area where the plate was going
10 to be welded?

11 A. Yes.

12 Q. So if someone was a fixing that plate to the deck
13 for purposes of welding, there's no reason why they
14 shouldn't have seen those drilled holes through the deck at
15 that time?

16 A. Correct.

17 Q. If they were right there; is that fair to say?

18 A. Yes.

19 Q. If you looked through those drilled holes, would it
20 be something you would observe, to someone doing the work
21 where there was a void space underneath?

22 A. Those holes are very small. If you took the time to
23 go look through them, you would probably see a void space,
24 yes.

25 Q. If you would have been aware you wouldn't think

1 somebody would start to weld in that confined space with a
2 pocket; where there's a void space underneath?

3 A. Yes.

4 Q. I'll show you another page of two photographs.
5 We'll mark this 13-B. I'll refer specifically to the one on the
6 bottom?

7 A. The welding machine.

8 Q. The welding machine?

9 A. That's a welding machine.

10 Q. If that's the one?

11 A. I didn't take the picture.

12 Q. Was it TIG welding machine?

13 A. I think so.

14 Q. This photograph of the, Miller, I don't know--

15 A. Uh-huh. Yes.

16 Q. Is that a MIG or a TIG?

17 A. Yes, that's a MIG. I believe this one would be used
18 as a TIG machine.

19 Q. Either or?

20 A. Yeah, with the right adaptors.

21 Q. With the right adaptors.

22 When you went into the lazarette, to investigate --
23 by the way, were you on board with Ken Rimer.

24 MR. FAMULARI: Ken Rumell?

25 THE WITNESS: That's yesterday's case.

1 BY MR. KALLEN:

2 Q. Peter?

3 A. Yes, Peter Rumell.

4 Q. You went on board with Peter Rumell?

5 A. I went on board with Peter Rumell, yes. I believe
6 the following day, or maybe he came out that night. I think
7 he may have come the next day though.

8 Q. You went into the lazarette?

9 A. Yes.

10 Q. Obviously a good part of the decking or the deck of
11 the lazarette had been displaced?

12 A. Correct.

13 Q. Was it possible to tell at that point in time
14 whether, pre-explosion, there had been any opening in the
15 deck itself, either where it joined at the bulk head?

16 A. Was it possible to tell?

17 Q. Yeah. From your post-explosion inspection?

18 A. The only way you would be able to tell that -- I
19 didn't video anything, but you would be able to tell that by
20 determining between the tear in the metal and the area of
21 metal that had been exposed to the atmosphere for any length
22 of time.

23 I investigate for that. It was observed that it
24 happened then.

25 Q. What I'm showing you is another page of photographs.

1 Let's mark that - this is 13-B. You're looking at 13-C.
2 The top photo too. There's a piece of, I guess that's
3 aluminum?

4 A. Yes.

5 Q. What's that supposed to represent or actually be?

6 A. That's the plate that was being welded.

7 Q. Okay. And on the top right-hand corner of this
8 appears to depict some type of damage to it. Do you know
9 what the purpose of that depiction was or what that is?

10 A. That's - well, may I look at it closer again?
11 That's a weld.

12 Q. So it's not damaged. It's an actual weld?

13 A. It's a weld being tore up. It's a weld taken out of
14 the deck, taken out again. The plate was welded in one or
15 two areas and then on the second or third time that he
16 struck on it, then the explosion happened.

17 It wasn't first time he touched it. He attempted it
18 when he was welding. It was like the third weld that went
19 through and exploded and went through the deck.

20 Q. When you say, the "third weld", is that based upon
21 your recollection or is that based upon what Henry told you?

22 A. Based upon my recollection and what Henry told me
23 and my investigation and I do believe in my photographs it
24 shows how many areas you could see, how many areas were
25 welded before.

1 Q. Well, yeah. In particular, this one right here
2 (indicating).

3 A. What are you looking at?

4 Q. In 13-A, you're referring to what now?

5 A. You can see a weld, here, (indicating) on the top.
6 You can see a weld here on the plate (indicating). I don't
7 know. It may have been two places at the time of this
8 accident, a weld had been laid safely.

9 It was on the second or third time that something
10 happened and the explosion happened. He was well - in
11 full-weld mode, he had not just flipped his hood.

12 Q. Do you know if he was wearing a mask or hood?

13 A. A hood, yeah.

14 Q. He was?

15 A. Yeah.

16 Q. Do you know if he laid - laid a fire blanket?

17 A. I don't know if he laid a fire blanket and get weld
18 spatter on your clothes or protect yourself.

19 Q. The question was: Do you know if he did?

20 A. No.

21 Q. Would your photographs may depict that?

22 A. They may well.

23 Q. Was the explosion scene, if you will, disturbed, in
24 any way before you had a chance to get on board other than,
25 of course, the circumstances under which Henry was taken off

1 by the paramedics?

2 A. That's the only area (indicating). There was also a
3 water pipe, a P.C. control water pipe broken and people were
4 coming in. We had people coming there.

5 Q. I may be done.

6 MR. FAMULARI: Do you want me ask a few more
7 questions ?

8 MR. KALLEN: I have to apologize. I said how many
9 pages of photographs? Let me correct the number of
10 photographs. For the record, I just found two, three,
11 four, five, six more pages.

12 So for the record Exhibit 13 will consist of 17
13 pages of photographs.

14 Put the rest of the letters on them in the case
15 we're referring to them.

16 Again, for the record, these are photographs that
17 were produced to me by Plaintiff's Counsel, so
18 everyone should have a copy of those.

19 I have no further questions at this time.

20 CONTINUED DIRECT EXAMINATION

21 BY MR. WEBER:

22 Q. Okay. The safety meeting that you talked about
23 earlier, these were conducted by you and who else?

24 A. Originally: Myself and Brian Hill. Then just me.

25 Q. Were these safety meetings done in English and

1 Spanish?

2 A. No.

3 Q. Just English?

4 A. English. Only there was a time - and it may have
5 even been Henry - there were a few guys there I would ask
6 people, I wouldn't do it with them, we wouldn't do an entire
7 safety meeting in Spanish and English.

8 There was guys there I would ask to explain to the
9 people that did not have a really good grasp of English to
10 translate.

11 Q. Do you know if Henry was one of the people that you
12 asked to have it explained to?

13 A. I don't remember if it was Henry.

14 Q. The safety manuals that were printed up, were these
15 in English and Spanish?

16 A. No, just English.

17 Q. You were the Project Manager on the Souvenir; is
18 correct?

19 A. Correct.

20 Q. Part of the project that had to do with putting the
21 new hydraulic pumps in for the steering, was that worked
22 into your bid?

23 A. No, it wouldn't a job that Bradford Marine was
24 performing.

25 Q. Was Bruce Atkinson going to do everything that to

1 the hydraulics: The mounting, the piping, the testing, all
2 that kind of thing or was Bradford going to have any
3 involvement at all?

4 A. I don't remember us having any involvement in it.

5 Q. What about if -- my understanding is that the
6 hydraulic pumps were going to be put in what was now the
7 lazarette on the boat, actually the rudder post and the
8 steering gear in front of it, correct?

9 A. Yes.

10 Q. When it came time to go through the bulk head with
11 the hydraulic holes, also would that be something Atkinson
12 would have Bradford do or would he have his own people do
13 that?

14 A. Bruce Atkinson had tools and the ability to put a
15 bulk head fitting in.

16 Q. Bradford didn't have any problem with him coming in
17 to do that?

18 A. Well, Bradford likes to make the owner of the vessel
19 happy and Bradford gets money to paint boats and every now
20 and then the owner says we would like to do this, and we
21 would say, okay; but we much prefer they work through the
22 yard.

23 Q. Henry testified yesterday that he was asked to
24 fabricate these plates that the pumps were going to go on
25 to. Would he have to have a work order to get the aluminum

1 plate out of the shop to make those?

2 A. At the time he would not have had to have a work
3 order to get the material to do the job.

4 At that time. It's more difficult now to start a
5 job and get materials at Bradford Marine than it was then.

6 Back then you could do an entire job and get
7 materials say in the welding department because they don't
8 stock metal in the parts department. But in the welding
9 shop you'd go to the metal rack, pull a piece of metal and
10 cut it and you could do an entire job saying that you had
11 wire in your gun and everything without having to get a
12 number, per say.

13 Q. July 7th, when this accident took place, the
14 documents that we have received from Bradford reveal that, I
15 think you looked at it earlier, one of the exhibits, that
16 Henry had been welding on a toolbox bracket?

17 A. Correct.

18 Q. I believe there's another one in there for the same
19 day he had been welding some type of bracket on the mast.

20 If he was going to be spending time say to go ground
21 in thee tack plates, it would be unusual for him to put the
22 hour or two it took on to the other jobs, does that kind of
23 thing happen.

24 MR. KALLEN: Object to the form.

25 BY MR. WEBER:

1 Q. Go ahead, you can answer.

2 A. In the past it had happened, yes.

3 Q. How did it work with the, you know -- well, let's
4 use welders in general, Henry in particular. He would go
5 into work in the morning and if he hasn't finished a job
6 from the day before, would he just check into the shop and
7 go start the job himself?

8 A. Yes.

9 Q. And if Tony Watson had another project, would Tony
10 tell him what needed to be done next?

11 A. Yes.

12 Q. How did Henry keep track of his time every day?

13 A. A time card. A time sheet.

14 Q. So he would do a project and write on the time sheet
15 what he did and how long it took?

16 A. Correct.

17 Q. In this particular case, we can assume that Henry
18 didn't write anything on the time sheet after the explosion;
19 is that correct?

20 A. I would say not.

21 Q. Do you think that may explain why we don't have
22 anything on the Bradford time sheet about these double
23 letter plates and welding them in?

24 MR. KALLEN: Object to the form.

25 THE WITNESS: Yes, that's one reason.

1 BY MR. WEBER:

2 Q. Can you think of any other reasons?

3 A. The only other reason that I could imagine would be
4 that, like you said earlier, could you do it and put it on
5 another job to save paperwork? Yes, that could have been
6 done. It could have been done. It could have been he's
7 working on the boat and we know the time is billed for the
8 mast job or whatever job that day, and the captain says,
9 knock this out.

10 He would go ahead and Henry was smart enough, he
11 didn't have to go to anybody, he was smart enough that he
12 could go to the shop and cut out the plates. He was quite
13 competent to take care of business. He didn't need anybody
14 watching what he was doing.

15 He would bring it back, do that job, go back to the
16 mast. The captain's fine with billing of that mast because
17 either way they were going to pay for it.

18 Q. Do you know if Captain Bredbeck was there that day?

19 A. I don't remember now.

20 Q. When you inspected the lazarette afterwards, did you
21 - do you remember seeing an actual hole blown in the plate
22 because or by the weld?

23 A. To my recollection, I think I saw a hole blown in
24 the plates there.

25 Q. We've got some photographs. Let's look at them.

1 Can you tell from any of the photographs whether there was
2 any holes blown in the deck?

3 A. I cannot tell from these photographs.

4 Q. What about - we don't quite know if this was, if
5 that plate was still on there or if it was moved, but is
6 there any evidence there of any holes being blown next to
7 the plate?

8 MR. KALLEN: Object to the form. Lack of predicate
9 and you're asking for speculation.

10 BY MR. WEBER:

11 Q. You can answer, if you can.

12 A. From the angle that I'm looking at now, you see that
13 the hole (indicating), that a hole had been blown through by
14 a welding torch, a gun.

15 I can see where the deck has peeled up and ripped
16 up, all the old weld is there. This is the area where there
17 was drilling (indicating).

18 I do see drill holes in this photograph
19 (indicating). All they -- with the amount of material
20 that's left on this plate, I would imagine it's underneath,
21 in the corner of this plate (indicating).

22 If I remember, that's where (indicating). You're
23 seeing a blown hole in the plate. I do remember seeing a
24 blown hole.

25 Q. We're looking 13-A, the top photograph; is that

1 correct?

2 A. Yes.

3 Q. Did you consider Henry to be a good welder?

4 A. Yes.

5 Q. Would it be unusual for a welder of Henry's
6 competence to be blowing holes in plates when he's tacking
7 something?

8 A. Yes.

9 Q. Henry testified yesterday that he thought that the
10 plate that he was welding on was a 1/4" thick. Would that
11 make a difference on what -- strike that?

12 MR. KALLEN: Are you talking about the plate or the
13 deck?

14 BY MR. WEBER:

15 Q. The deck, excuse me.

16 Would the thickness of the deck make a difference on
17 what you set amperage on, the welder at?

18 A. Yes, it would.

19 Q. And if it was less than 1/4 of an inch, would you
20 set at lower amperage?

21 A. Yes, you would set lower amperage. The chance of
22 blowing through a deck greatly increases with the higher
23 amperage.

24 Q. Since you have been a trained as a welder, I might
25 as well ask you: Henry said the welder was set at 125 amps,

1 would that have been appropriate in a 1/4 inch plate?

2 A. Yes.

3 Q. What about a 3/16's plate?

4 A. 3/16's, depending on how you weld it. It's a little
5 high for 3/16 to 1/8 inch plate.

6 Q. Can you tell by looking at those photographs what
7 the thickness of the plate was that it's blown up a couple
8 of places?

9 MR. KALLEN: The plate or deck?

10 BY MR. WEBER:

11 Q. Deck, sorry.

12 A. Approximately 1/8th of an inch thick.

13 Q. When you did your investigation and inspection
14 afterwards, did you see any vents that would have vented
15 that void space underneath up into the lazarette area?

16 A. No.

17 Q. In the years that you have been or studied, did you
18 say you were a boilermaker?

19 A. Yeah, a boilermaker.

20 Q. Is it unusual to have a void space that doesn't have
21 a vent?

22 A. Probably not, not if you weren't filling it with
23 anything you need to vent in. You're putting something into
24 it. I believe, so. No.

25 Q. Have you, in your years of working at Bradford, have

1 you seen void spaces on vessels that weren't vented?

2 A. That weren't vented?

3 Q. That were not vented.

4 A. Yes.

5 Q. What kind of application?

6 A. Rub rail, as we spoke before. Rub rail around the
7 side of the boats; void space. Exhaust sponsons. You
8 know, exhaust sponsons are vented because that's where the
9 vent comes out; that's not good.

10 Probably rub rail and maybe some other things as far
11 as tankage storage areas, they're normally always vented.
12 Some are not vented as well as they should be.

13 I can't say the idea of trying to fill a void space
14 without having a vent, it doesn't work.

15 Q. What's the purpose of the vent?

16 A. To displace the air if you're filling it.

17 Q. Do you -- do you know whether Tony Watson had gone
18 into the lazarette prior to the explosion at any time?

19 A. No, I don't know.

20 Q. You don't know?

21 A. I don't know.

22 MR. WEBER: I don't have anything else.

23 CONTINUED DIRECT EXAMINATION

24 BY MR. KALLEN:

25 Q. Something just came to my mind.

1 Put your welding hat on. You're asked to weld an
2 aluminum plate on a 1/4 inch thick aluminum deck; that's
3 what you're told.

4 A. Yes.

5 Q. I take it that you, as a welder, know that a welding
6 machine generates a good amount of heat?

7 A. Yes.

8 Q. The reason for all these safety rules is that heat
9 can ignite flammable vapors, gases that will not only ignite
10 the immediate area but perhaps on the other side of the
11 sheet that you're welding?

12 A. Correct.

13 Q. Because the heat generates through the - in this
14 case - aluminum deck and possibly ignites vapors on the
15 other side of it?

16 A. Correct.

17 Q. Well then, my question is: If you know you're
18 igniting -- I'm sorry, welding on what is really a thin
19 sheet of aluminum, shouldn't you do something to determine
20 what's on the other side of that other sheet?

21 A. Yes.

22 Q. What should you do?

23 A. You should investigate the area.

24 Q. And how do you do that?

25 A. You either drill a hole or do it with a holesaw, not

1 just a regular drill bit.

2 Q. Again, you're talking as a welder?

3 A. Yes. Then you would investigate what's in there
4 find out what's behind that void space. As a welder, one
5 of the mantras is that you will not weld an unknown void
6 space or you're going to kill yourself.

7 Q. Particularly something that's thin, I take it, a 1/4
8 inch aluminum deck is on the thin side?

9 A. It's getting there. The deck was around 1/8th of
10 an inch; that's really thin-skinned.

11 Q. But you're told it's 1/4?

12 A. If you're told it's 1/4 of an inch and you set your
13 machine to burn into a half an inch or - I don't believe
14 that plate was 3/4's. It's like a 1/2 an inch or 5/8ths.

15 You can burn into part of a metal plate and you can
16 wash the weld into the 1/4 inch without blowing a hole
17 through the back of it but it's not good practice.

18 You should know what you're welding against.

19 Q. That's my point, you know you're welding onto a 1/4
20 inch thick aluminum?

21 A. Whatever you're welding, if it's a 1/2 an inch, you
22 should know what's behind it.

23 Q. You know that generates heat, especially with
24 aluminum. Again it heats and goes through the aluminum and
25 could possibly ignite whatever is behind it?

1 A. Correct.

2 Q. So you, as a welder, you should do something to
3 determine what's on the other sides of that?

4 A. At the very least, I would question it.

5 Q. Before you light up that torch?

6 A. Yes.

7 Q. All right?

8 MR. FAMULARI: Any follow-up questions to that?

9 BY MR. KALLEN:

10 Q. By the way, the Workplace Safety Solutions people,
11 do they submit something in writing as far as
12 recommendations for to you consider?

13 A. For our --

14 Q. Yeah, back in '95, '96 about a work safety proposal?

15 A. Yes.

16 Q. They submitted something in writing: Like, here's
17 what we submitted?

18 A. Yes.

19 Q. Do you still have that? I'm not talking about what
20 was ultimately prepared as the manual, I'm talking about
21 their recommendation?

22 A. Their name is on our manual and their
23 recommendations for Bradford Marine is there and there might
24 even be a fourth folder, but there's a folder that's
25 floating around that has the recommendations to Bradford

1 Marine, yes.

2 Q. Were there any recommendations not followed or
3 adopted properly?

4 A. Most likely, yes.

5 Q. We'd have to find that --

6 A. You had have to close your business if you want to
7 follow every O.S.H.A. regulation.

8 Q. That's true.

9 DIRECT EXAMINATION

10 BY MR. FAMULARI:

11 Q. I have a follow-up question and I'll ask this
12 hypothetically so John doesn't give me the predicate
13 objection and all the other type of objections.

14 If you were going to weld, and I'm asking you this
15 as a welder.

16 A. Yes.

17 Q. If you were going to weld in a space like what we
18 had here on the Souvenir, and you asked what was under
19 there, if any fuel lines were there or asked if any fuel
20 lines or hydraulic lines were under there and you were told
21 no, and you were told that it was filled with cement to the
22 top and then the plate was laid on top and welded around it;
23 if, assuming that you asked that and that's what you were
24 told, would you think it would be safe to weld then?

25 A. No.

1 Q. What should you do then?

2 A. At least cut some kind of hole and get multi-gas to
3 check the void.

4 Q. But what if you were told it was filled with cement
5 to the top and a plate was laid directly on the cement and
6 you were told there wasn't a void space. It was filled with
7 cement and had a plate on it?

8 A. It should have been checked. It should be checked
9 because you're putting your life into somebody else's hands.

10 MR. FAMULARI: I have nothing further.

11 MR. KALLEN: For the record, I'm going to retain the
12 original or the last color copies of the photo exhibits
13 because they're my set.

14 (Whereupon, the deposition was concluded.)

15 STIPULATION

16 It is hereby stipulated to by and between appearing
17 counsel and the witness, that the notice, reading and
18 signing of said deposition be, and the same are hereby
19 waived.

20 And further deponent saith not.

CERTIFICATE

STATE OF FLORIDA)

) SS

COUNTY OF BROWARD)

I, DEBORAH PEARLMAN, a Notary Public in and for the
State of Florida at Large,

DO HEREBY CERTIFY that the foregoing deposition was
held before me at the time and place therein designated,

I FURTHER CERTIFY that I am not of the employ of
either the witness or any counsel nor am I financially
interested in the outcome of these proceedings.

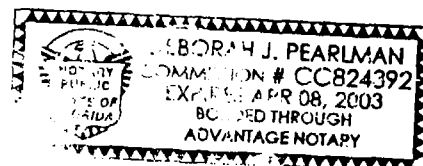
I FURTHER CERTIFY that the foregoing pages, 1
through 98 inclusive, is a true and correct copy of the
proceedings held.

WITNESS MY HAND on this the 24th day of January of
the year 2001 in the County of Broward, City of Fort
Lauderdale, State of Florida.



Notary Public

State of Florida at Large



080	2	14 Jun 97	11001	MODIFY RINGS	R	2.00	150.00
080	3	16 Jun 97	05202	BUILD UP SHAFT BEARINGS	R	0.50	25.00
080	4	30 Jun 97	05202	BUILD UP SHAFT BEARINGS	R	0.50	25.00
						Total Labor	300.00

DP: PRESSURE TEST AFT FUEL TANKS.

Material

081	1	06/13/97	03708	TEFLON TAPE	1	4.95	
081	2	06/13/97	03708	PIPE FITTING - 90 DEGREE BRASS	1	3.40	
081	3	06/13/97	03708	PIPE FITTING - BRASS NIPPLES	1	3.30	
081	4	06/13/97	03708	PIPE FITTING - BRASS NIPPLES	1	6.30	
081	5	06/13/97	03708	PIPE FITTING - BRASS TEES 1/2"	1	4.00	
081	6	06/13/97	03708	PIPE FITTING - BRASS RED BUSHING	2	4.70	
081	7	06/17/97	03763	BLACK ELECTRICAL TAPE	1	4.86	
081	8	06/17/97	03749	DURACELL - BATTERIES AA	2	4.42	
081	9	06/21/97	03749	PERMATEX FORM-A-GASKET #1	1	3.25	
081	10	06/21/97	03749	HOSE CLAMPS - RM-12	20	37.00	
081	11	06/21/97	03749	BLACK WET EXHAUST HOSE (WITH-OUT W	1	4.35	
081	12	06/26/97	03763	PIPE FITTING - BRASS PIPE PLUG 3/4	2	5.50	
081	13	06/26/97	03763	HOSE CLAMPS - RM-16	2	3.70	
						Total Material	89.73

Purchases

081	1	06/13/97	11076-001	3/8 DRAIN PLUG LEWIS MARI	1	3.30	
081	2	06/13/97	11076-002	7/16 DRAIN PLUG LEWIS MARI	1	3.50	
081	3	06/13/97	11076-003	1/2 DRAIN PLUG LEWIS MARI	1	3.30	
081	4	06/24/97	11405-001	5/8 NYLON MENDERS VANGUARD P	20	14.40	
081	5	06/26/97	11526-001	3/4 PVC HOSE COUP LEWIS MARI	8	8.00	
						Total Direct Purchases	32.50

Total Sublet Purchases 0.00

Labor

081	1	13 Jun 97	03758	LEAK TEST TANKS	R	1.00	50.00
081	2	13 Jun 97	03763	PRESSURE TEST TANKS	R	3.50	175.00
081	3	13 Jun 97	03628	LEAK TEST TANK	R	0.50	25.00
081	4	13 Jun 97	03708	PRESSURE TEST	R	6.00	300.00
081	5	16 Jun 97	05202	PRESSURE TEST FUEL TANKS	R	0.50	25.00
081	6	16 Jun 97	03758	PRESSURE TEST	R	1.00	50.00
081	7	16 Jun 97	03689	PRESSURE TEST AFT FUEL TANK	R	5.00	250.00
081	8	16 Jun 97	03763	PRESSURE TEST FUEL TANKS	R	5.50	275.00
081	9	16 Jun 97	03628	LEAK TEST	R	0.50	25.00
081	10	16 Jun 97	03749	PRESSURE TEST FUEL TANKS	R	8.00	400.00
081	11	19 Jun 97	03752	STERN TUBE BOLTS	R	1.00	50.00
081	12	20 Jun 97	03749	PRESSURE TEST TANKS	R	1.50	75.00
081	13	20 Jun 97	03739	PRESSURE TEST TANKS	R	1.50	75.00
081	14	26 Jun 97	03740	PRESSURE TEST FUEL TANK	R	8.00	400.00
081	15	26 Jun 97	03763	PRESSURE TEST TANKS	R	6.50	325.00
081	16	26 Jun 97	03740	PRESSURE TEST FUEL TANK	0	0.50	37.50
081	17	30 Jun 97	05202	PRESSURE TEST FUEL TANK	R	0.50	25.00
081	18	02 Jul 97	03740	REINSTALL VENT HOSE	R	1.00	50.00
081	19	03 Jul 97	03740	RECONNECT VENT LINES	R	1.00	50.00
						Total Labor	2,662.50

Diff 5
 DP.
 JAMES
 HENDRICKS

080 BUILD UP THICKNESS ON SHAFT BEARINGS WITH FIBERGLASS 321.31
FOR TURNING TO PROPER DIAMETER AS DIRECTED.

NOTE: STERN TUBE EGG SHAPED.

DUST MASKS - 3M
SQUEEGEE
THROW AWAY BRUSH - 2"
RUBBER GREEN GLOVES - LARGE
DIAPER RAGS
PAPER BUCKETS - SMALL

Materials 21.31
Labor 300.00

081 PRESSURE TEST AFT FUEL TANKS. 2,784.73

BLACK ELECTRICAL TAPE
PIPE FITTING - 90 DEGREE BRASS
PIPE FITTING - BRASS TEES 1/2"
PIPE FITTING - BRASS PIPE PLUG 3/4"
PIPE FITTING - BRASS RED BUSHING
PIPE FITTING - BRASS NIPPLES
PIPE FITTING - BRASS NIPPLES
PERMATEX FORM-A-GASKET #1
TEFLON TAPE
BLACK WET EXHAUST HOSE (WITH-OUT WIRE)
HOSE CLAMPS - RM-12
HOSE CLAMPS - RM-16
DURACELL - BATTERIES AA
3/8 DRAIN PLUG
7/16 DRAIN PLUG
1/2 DRAIN PLUG
5/8 NYLON MENDERS
3/4 PVC HOSE COUPLINGS

Materials 122.23
Labor 2,662.50

082 HULL: SET UP FLOATS AND SCAFFOLDING. COVER DECKS AND 24,420.00
SUPERSTRUCTURE FOR PROTECTION AS NECESSARY. MASK OFF
RUBRAILS, SAND AND PREPARE SIDES OF HULL AND TRANSOM.
SAND, PRIME AND GLAZE ANY IMPERFECTIONS AND DAMAGED
AREAS. PRIME AS NECESSARY AND APPLY TWO COATS OF PAINT.
RELETER NAME AND HAILING PORT. REMOVE PROTECTIVE
COVERING.

NOTES: THE ABOVE PRICE INCLUDES FAIRING HULL PATCH
AND NEW HAWSE EYES ON STERN.

***** QUOTE 010505 *****

083 BOOTSTRIPE: MASK OFF AS NECESSARY. SAND, GLAZE, SPOT 3,550.00

Jeffrey C
Henderson
11/2/01

079# INSTALL MOUNTS SUPPLIED BY NAUTICAL STRUCTURES INSIDE

MAST TO BE USED IN HYDRAULIC STEPPING SYSTEM AS DIRECTED.

080# BUILD UP THICKNESS ON SHAFT BEARINGS WITH FIBERGLASS

FOR TURNING TO PROPER DIAMETER AS DIRECTED.

NOTE: STERN TUBE EGG SHAPED.

081# PRESSURE TEST AFT FUEL TANKS.

082# HULL: SET UP FLOATS AND SCAFFOLDING. COVER DECKS AND

0.00

SUPERSTRUCTURE FOR PROTECTION AS NECESSARY. MASK OFF RUBRAILS, SAND AND PREPARE SIDES OF HULL AND TRANSOM. SAND, PRIME AND GLAZE ANY IMPERFECTIONS AND DAMAGED AREAS. PRIME AS NECESSARY AND APPLY TWO COATS OF PAINT. RELETTER NAME AND HAILING PORT. REMOVE PROTECTIVE COVERING.

NOTES: THE ABOVE PRICE INCLUDES FAIRING HULL PATCH AND NEW HAWSE EYES ON STERN.

083# BOOTSTRIPE: MASK OFF AS NECESSARY. SAND, GLAZE, SPOT

0.00

PRIME AND PAINT BOOTTOP TWO FULL COATS.

NOTE: THE ABOVE PRICE DOES NOT INCLUDE HAUL OUT, IF NECESSARY.

084# LAY OUT NEW BOOTSTRIPE AS DIRECTED.

085# HOOK UP PORTABLE A/C UNIT TO VESSEL WHEN HAULED OUT.

DISCONNECT PRIOR TO LAUNCHING. RECONNECT TO VESSEL IN PAINT SHED AND DISCONNECT.

086# FAIR IN WELDED OVER SHORE POWER BOXES ON MAIN DECK

BULMARKS AS DIRECTED.

087# REPAIR EXISTING LEAKS IN FUEL TANKS FOUND DURING

PRESSURE TEST.

088# MAKE NECESSARY REMOVALS FOR ACCESS TO REPAIR LEAKING

Def't 7.
DAVID
HENDERSON
11/21/00

		Labor			
098	1	30 Jun 97	02628 PANEL CLOSET	R 3.00	150.00
098	2	04 Aug 97	02599 FIT PANELING INSIDE CLOSET	R 2.50	125.00
098	3	04 Aug 97	02596 FIT PANELING IN CLOSETS	R 2.50	125.00
				Total Labor	400.00

099 FABRICATE AND INSTALL BRACKETS FOR TOOL BOX AS DIRECTED.

		Material			
099	1	06/27/97	09002 HEX HEAD S/S MACHINE BOLT 1/4"-20	3	0.72
099	2	06/30/97	09002 ROUND HEAD S/S MACHINE SCREWS	4	0.24
099	3	07/07/97	09002 1 X 1 X 3/16 5086 ALUM. ANGLE	5	7.80
099	4	07/07/97	09002 FLAT HEAD S/S MACHINE SCREWS	3	0.63
				Total Material	9.39

Total Direct Purchases 0.00

Total Sublet Purchases 0.00

		Labor			
099	1	27 Jun 97	09002 TOOL BOX BRACKET	R 5.00	250.00
099	2	03 Jul 97	09009 BRAKE FOR TOOL BOX	R 1.00	50.00
099	3	03 Jul 97	09002 FAB. AND INSTALL BRACKETS	R 1.00	50.00
099	4	07 Jul 97	09002 BRACKETS FOR TOOL BOX	R 2.00	100.00
099	5	30 Jul 97	09009 MAKE BRACKET FOR TOOL BOX IN R	4.00	200.00
				Total Labor	650.00

100 FABRICATE HANDRAIL FOR ENGINE ROOM STAIRS.

Total Material 0.00

Total Direct Purchases 0.00

Total Sublet Purchases 0.00

		Labor			
100	1	26 Jun 97	09002 FAB. HANDRAIL	R 1.00	50.00
				Total Labor	50.00

101 CLEAN AND PREPARE BOTTOM FOR ANTI-FOUL.

		Material			
101	1	06/30/97	01008 ANGLE BRUSH	1	9.36
101	2	06/30/97	01008 2" DUCT TAPE	1	12.00
101	3	06/30/97	01008 DIAPER RAGS	1	6.00
101	4	06/30/97	01008 ALUMIPREP	1	22.00
101	5	06/30/97	01008 METAL PAINT POTS	1	3.50

De F. 8.
DAVID
HENDERSON
1/2/01

089# INSTALL SUCTION PIPES IN FRESH WATER TANK AS DIRECTED.

(PIPING SUPPLIED BY VESSEL.)

090# WELD MISCELLANEOUS BRACKETS IN ENGINE ROOM SUPPLIED BY

VESSEL.

091# COVER BULKHEADS WITH DOORSKIN AS PER CAPTAIN.

092# REPAIRS TO SLIDING DOORS.

093# INSTALL SWITCH FOR WINDLASS.

094# FABRICATE AND INSTALL MOUNT FOR CAMERA ON MAST.

095# MODIFY ENGINE ROOM SINK AS DIRECTED.

096# SAND BOTTOM EDGE OF BOOTSTRIPE (OLD) AND APPLY SEALER

TO ACCEPT BOTTOM PAINT AS DIRECTED.

098# FIT PANELLING INSIDE CLOSET.

099# FABRICATE AND INSTALL BRACKETS FOR TOOL BOX AS

DIRECTED.

100# FABRICATE HANDRAIL FOR ENGINE ROOM STAIRS.

101# CLEAN AND PREPARE BOTTOM FOR ANTI-FOUL.

102# PAINT BOTTOM AS DIRECTED. PRIME AND PAINT RUNNING

GEAR.

DAVIS
11/21/01
HENDER

51B-8

FIRE PREVENTION DURING WELDING, CUTTING, AND OTHER HOT WORK

Side 1 HOT WORK PERMIT	Side 2 ATTENTION
Date _____ Building _____ Dept. _____ Floor _____ Work to be done _____ Special precautions _____ Is fire watch required? _____ The location where this work is to be done has been examined, necessary precautions taken, and permission is granted for this work. (See other side.) Permit expires _____ Signed _____ Permit Authorizing Individual (PAI) Time started _____ Completed _____ <p style="text-align: center;">FINAL CHECK</p> Work area and all adjacent areas to which sparks and heat might have spread [including floors above and below and on opposite side of wall(s)] were inspected 30 minutes after the work was completed and were found firesafe. Signed _____ Permit Authorizing Individual (PAI)	<p style="text-align: center;">ATTENTION</p> Before approving any hot work permit, the PAI shall inspect the work area and confirm that precautions have been taken to prevent fire in accordance with NFPA 51B. <p style="text-align: center;">PRECAUTIONS</p> <input type="checkbox"/> Sprinklers in service <input type="checkbox"/> Hot work equipment in good repair <p style="text-align: center;">WITHIN 35 FT OF WORK</p> <input type="checkbox"/> Floors swept clean of combustibles <input type="checkbox"/> Combustible floors wet down, covered with damp sand, metal, or other shields <input type="checkbox"/> All wall and floor openings covered <input type="checkbox"/> Covers suspended beneath work to collect sparks <p style="text-align: center;">WORK ON WALLS OR CEILINGS</p> <input type="checkbox"/> Construction noncombustible and without combustible covering <input type="checkbox"/> Combustibles moved away from opposite side of wall <p style="text-align: center;">WORK ON ENCLOSED EQUIPMENT (Tanks, containers, ducts, dust collectors, etc.)</p> <input type="checkbox"/> Equipment cleaned of all combustibles <input type="checkbox"/> Containers purged of flammable vapors <p style="text-align: center;">FIRE WATCH</p> <input type="checkbox"/> To be provided during and 30 minutes after operation <input type="checkbox"/> Supplied with a fully charged and operable fire extinguisher <input type="checkbox"/> Trained in use of equipment and in sounding fire alarm <p style="text-align: center;">FINAL CHECK</p> <input type="checkbox"/> To be made 30 minutes after completion of any operation unless fire watch is provided Signed _____ Permit Authorizing Individual (PAI)

Figure A-3-3.1(a) Sample of a hot work permit.

#3 "10"
11/12/01
D.
12-1

HOT WORK PERMIT¹

**BEFORE INITIATING HOT WORK, ENSURE PRECAUTIONS ARE IN PLACE!
MAKE SURE AN APPROPRIATE FIRE EXTINGUISHER IS READILY AVAILABLE!**

This Hot Work Permit is required for any operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Thawing Pipe, Torch-Applied Roofing², and Cadwelding.

INSTRUCTIONS

- A. Verify precautions listed at right (or do not proceed with the work).
B. Complete and retain this permit.

HOT WORK BEING DONE BY

- ☐ EMPLOYEE
☐ CONTRACTOR _____

DATE

JOB NO.

LOCATION/BUILDING & FLOOR

NATURE OF JOB/OBJECT

NAME OF PERSON DOING HOT WORK

I verify the above location has been examined, the precautions checked on the Required Precautions Checklist have been taken to prevent fire, and permission is authorized for work.

SIGNED:

PERMIT
EXPIRES:

DATE

TIME

AM
PM

NOTE EMERGENCY NOTIFICATION ON BACK OF FORM.
USE AS APPROPRIATE FOR YOUR FACILITY.

**THIS PERMIT IS GOOD FOR
ONE DAY ONLY!**

Required Precautions Checklist

- ☐ Available sprinklers, hose streams, and extinguishers are in service/operable.
☐ Hot work equipment in good repair.
Requirements within 35 ft (10 m) of work
☐ Flammable liquids, dust, lint, and oil deposits removed.
☐ Explosive atmosphere in area eliminated.
☐ Floors swept clean.
☐ Combustible floors wet down, covered with damp sand or fire-resistant sheets.
☐ Remove other combustibles where possible. Otherwise protect with fire-resistant tarpaulins or metal shields.
☐ All wall and floor openings covered.
☐ Fire-resistant tarpaulins suspended beneath work.
Work on walls or ceilings/enclosed equipment
☐ Construction is noncombustible and without combustible covering or insulation.
☐ Combustibles on other side of walls moved away.
☐ Danger exist by conduction of heat into another area.
☐ Enclosed equipment cleaned of all combustibles.
☐ Containers purged of flammable liquids/vapors.
Fire watch/hot work area monitoring
☐ Fire watch will be provided during and for 30 minutes after work, including any coffee or lunch breaks.
☐ Fire watch is supplied with suitable extinguishers.
☐ Fire watch is trained in use of this equipment and in sounding alarm.
☐ Fire watch may be required for adjoining areas, above, and below.
☐ Monitor hot work area for 30 minutes after job is completed.

Other Precautions Taken

- ☐ Confined space entry permit required.
☐ Is area protected with smoke or heat detection.
☐ Ample ventilation to remove smoke/vapor from work area.
☐ Lockout/tagout required.

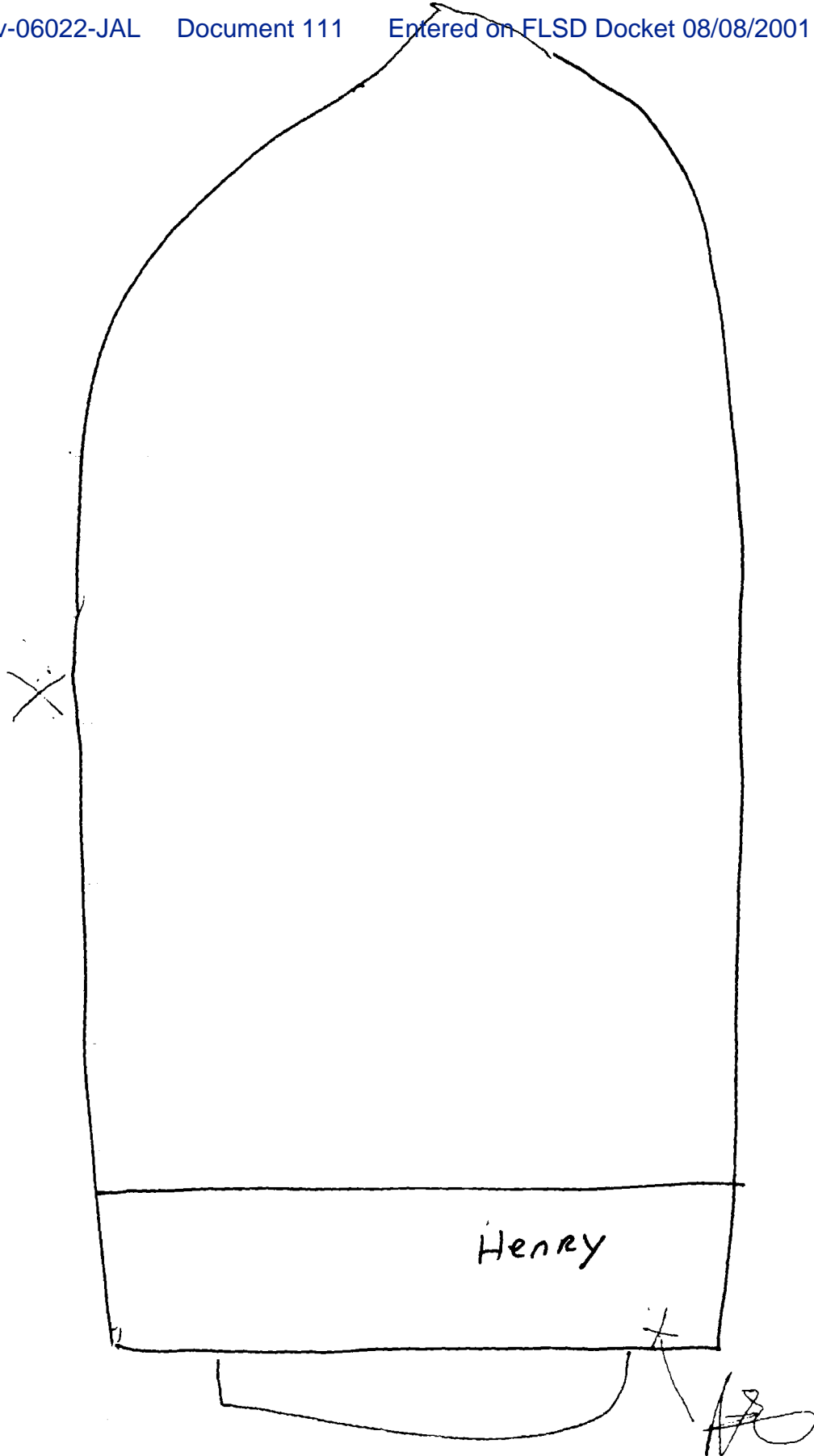
© 1992 Factory Mutual Engineering Corporation. Reprinted with permission.

Notes:

- When used in accordance with NFPA 51B, this permit is to be used for, but not limited to, the following: welding, cutting, grinding, open-flame soldering, and thawing pipe.
- Torch applied roofing is exempt from NFPA 51B per 1-2.3.

Figure A-3-3.1(b) Sample of a hot work permit.

#3 MARKER
①
1/12/01
D. JIC

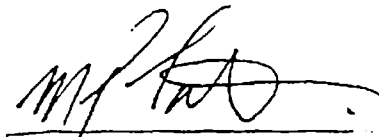


12A
1/12/01
H.K.

M/Y SOUVENIR
STATEMENT OF ACCIDENT FROM MARK P. TORTORA
DATE OF ACCIDENT: 7/7/97 - APPROX. TIME 3:20-3:30

On Monday, July 7, 1997 at approximately 3:20 p.m I was in a meeting with the General Manager of Operations, Mr. Paul Engle, when I heard a very loud explosion. At first, I thought it may have been an accident on the road in front of the facility. I did not react immediately, but I was thinking that the sound and vibration was too close for comfort. I then heard over our two-way radios that there had been an explosion on the vessel "SOUVENIR" and that an employee had been injured and for our receptionist to dial 911 emergency. I immediately rushed to the rear of the stockroom and instructed parts department employees to hand me a first response kit and a shock blanket that is always kept in the parts department in case of emergencies. Terry Peters is an employee in the parts department and a certified Paramedic, he asked if I would like him to come with me. I agreed that was a good idea and we rushed to the vessel. After arriving at the vessel, I noticed that Henry was laying in the cockpit and was being assisted by Doug Pierce (a vessel employee and trained Paramedic) and Luis Montalvo (BMI employee), I asked what happened and was told that Henry was welding a pump bracket in the lazaret and there was an explosion. There were no flammable liquids in the lazaret at the time of the accident as far as anyone can remember.

Henry was doing various welding jobs on the vessel and was instructed to weld the pump base on by crew.



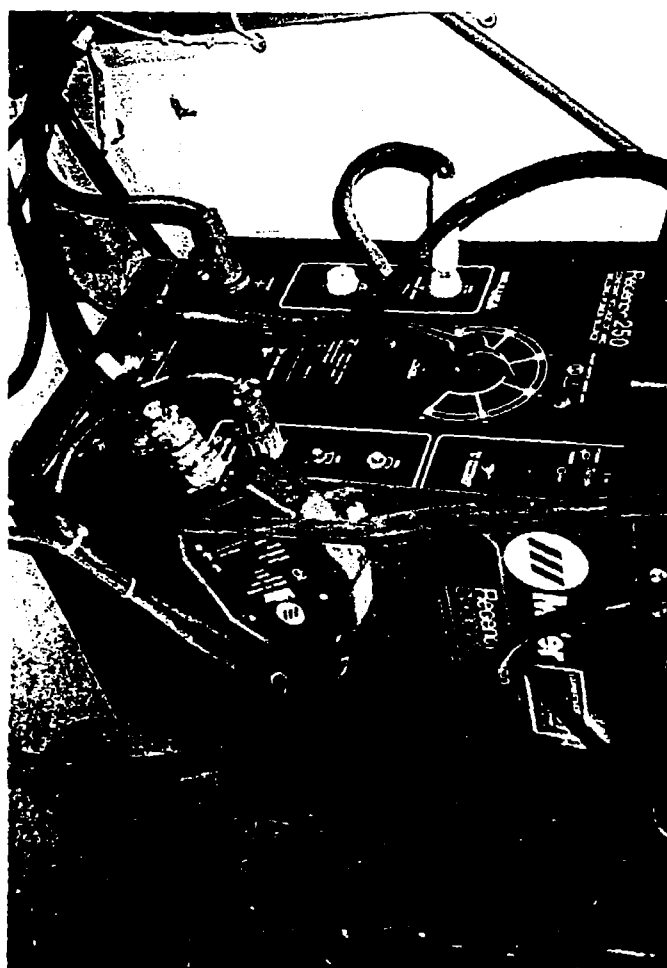
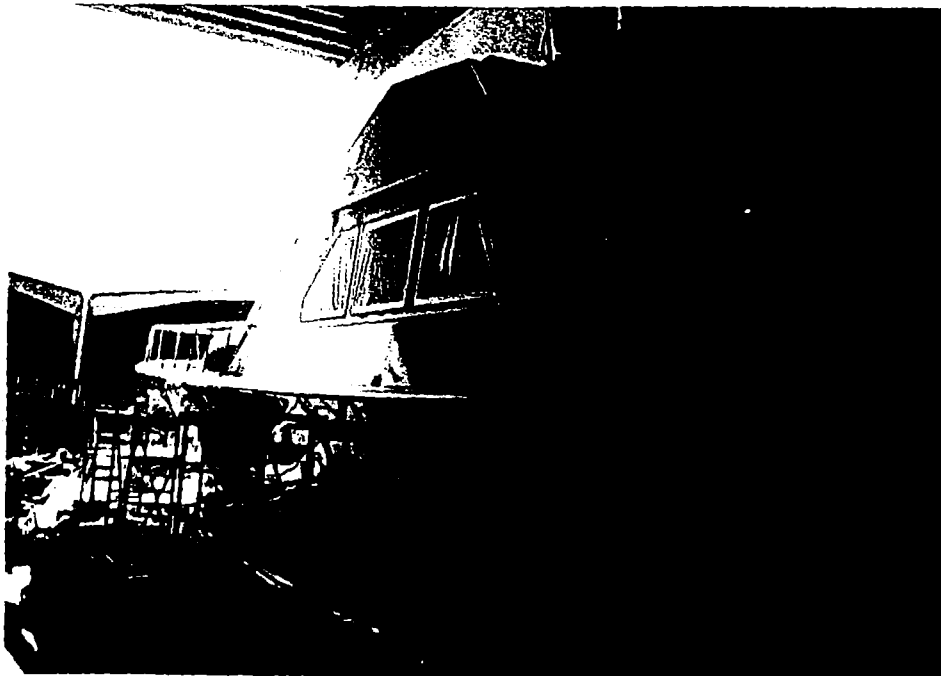
Mark P. Tortora
(954) 731-4498

7-10-97
Date:

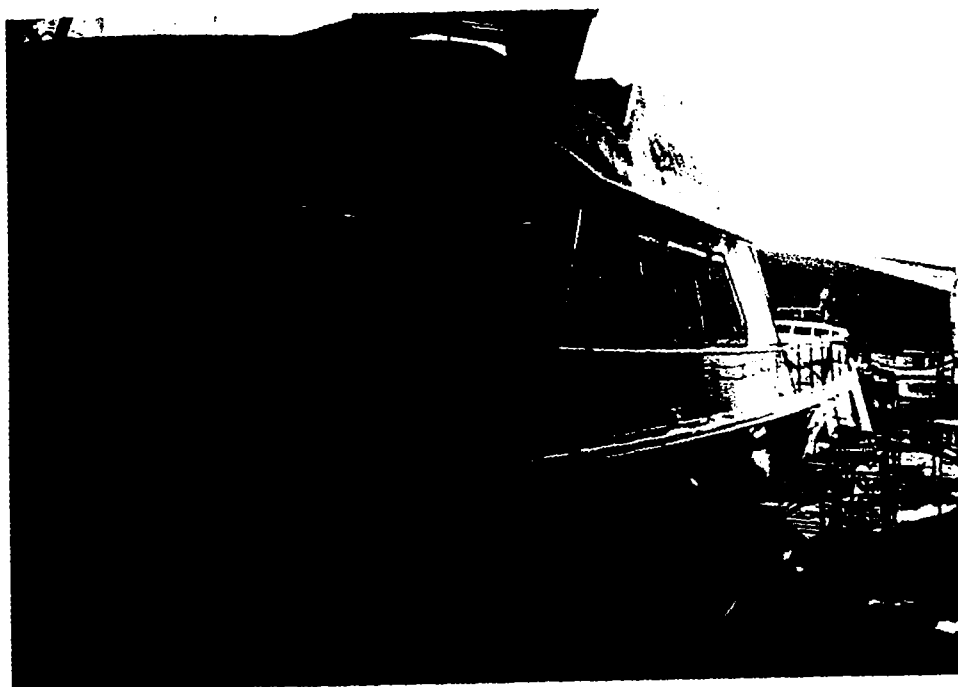
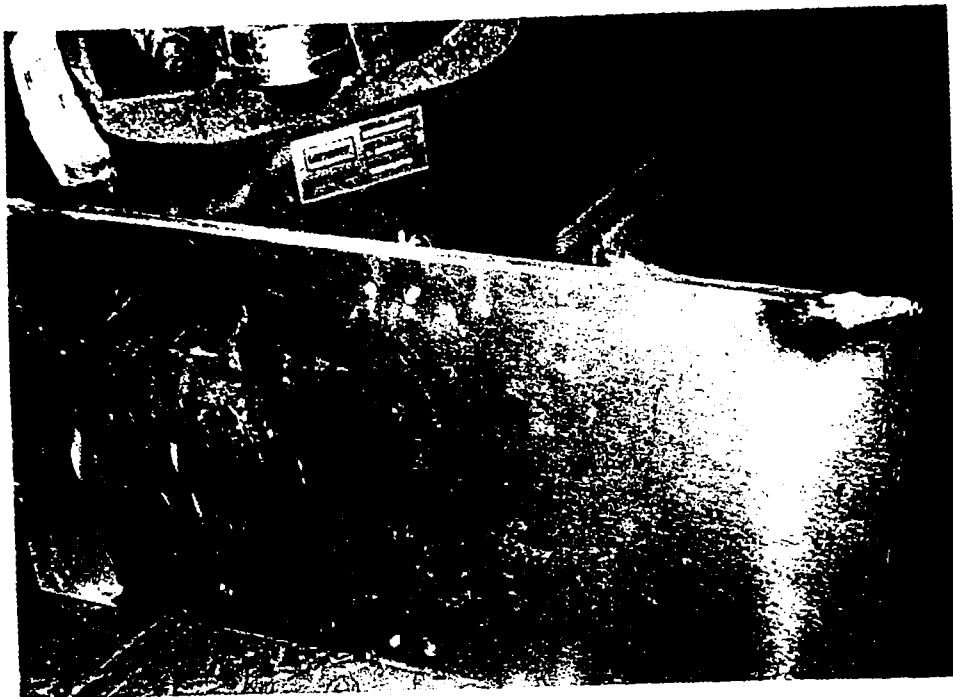
12B
MARK
TORTORA
By JOHN
KALLER

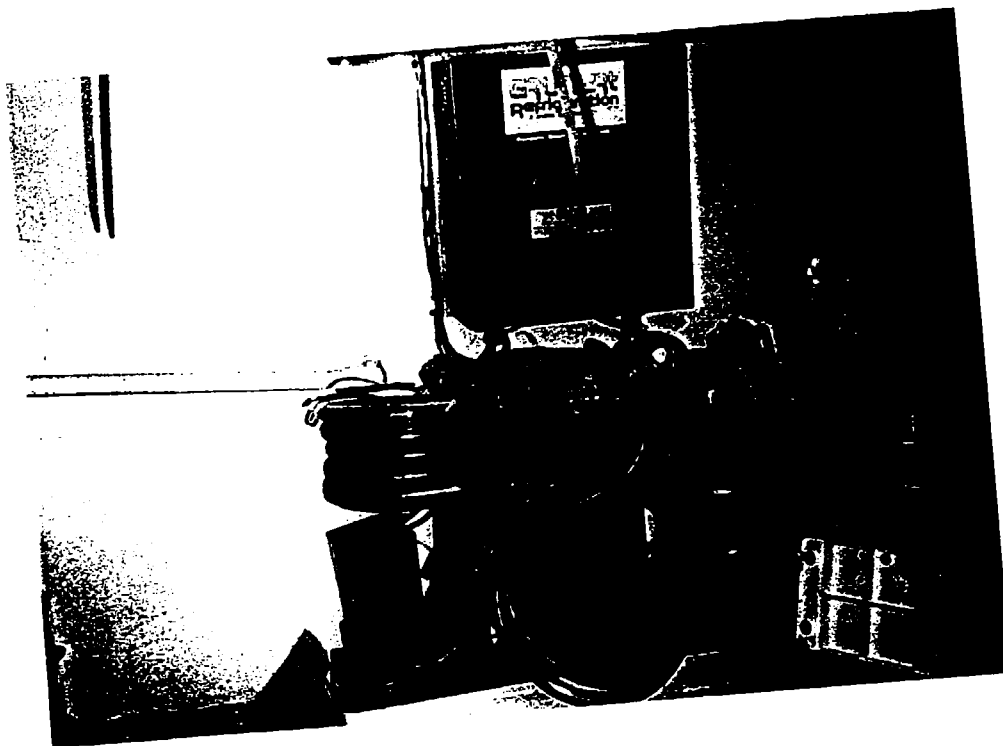
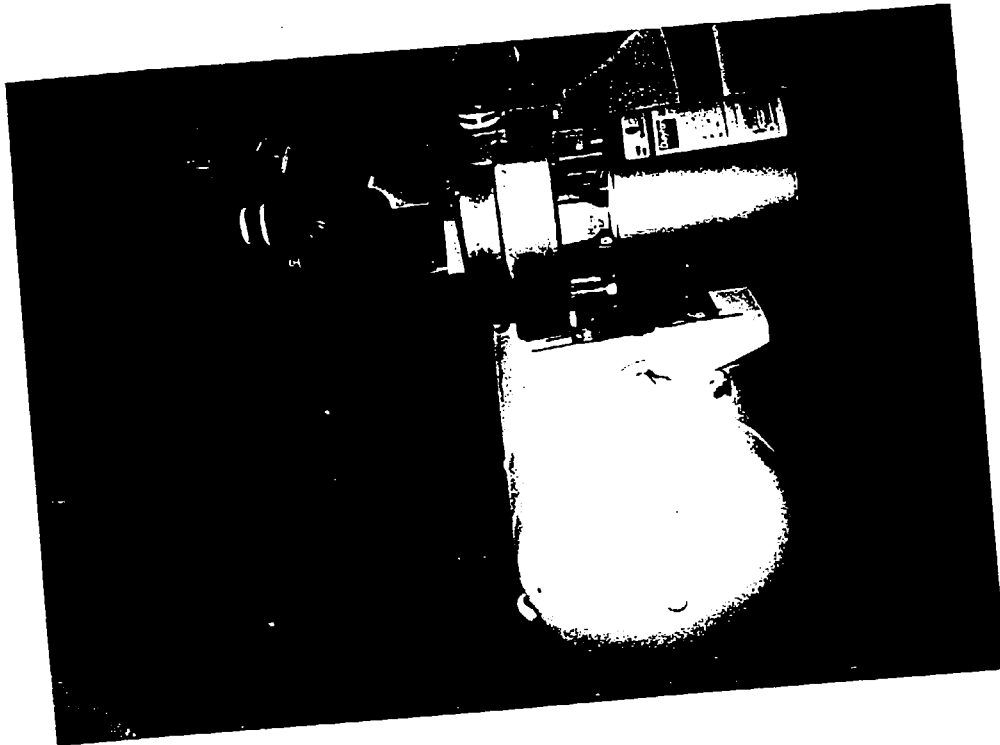


* 13A.



13B+





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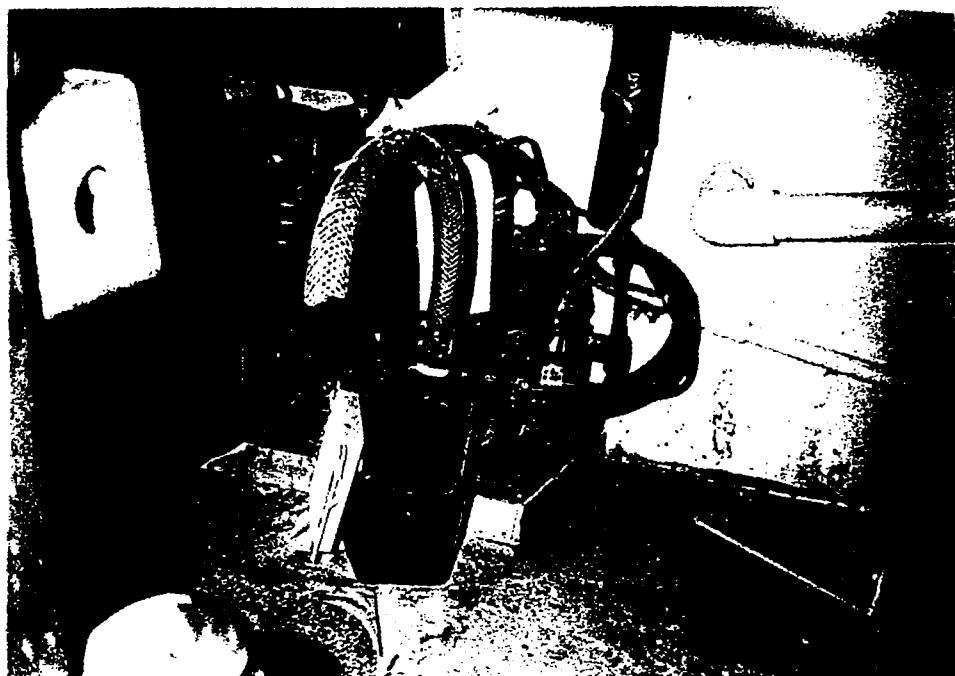
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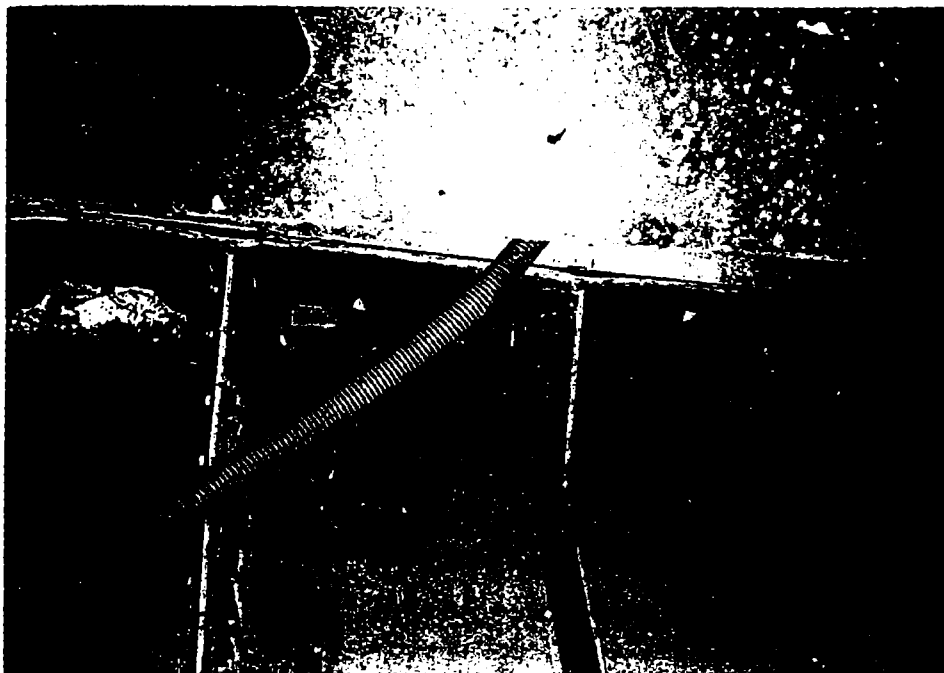


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11/12/01
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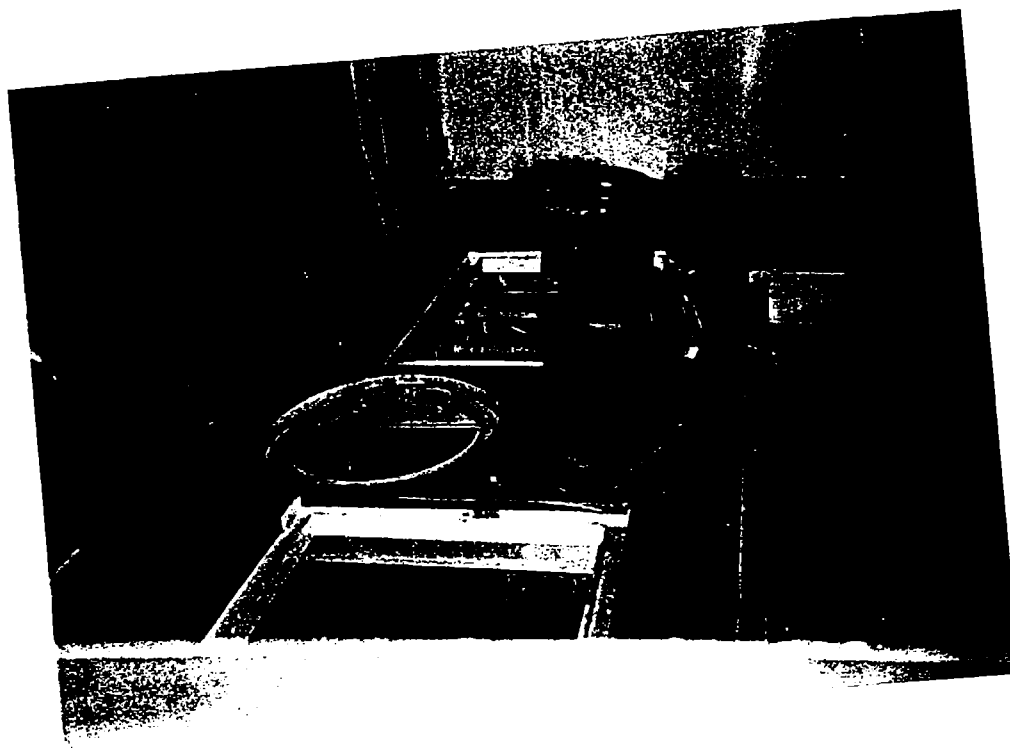
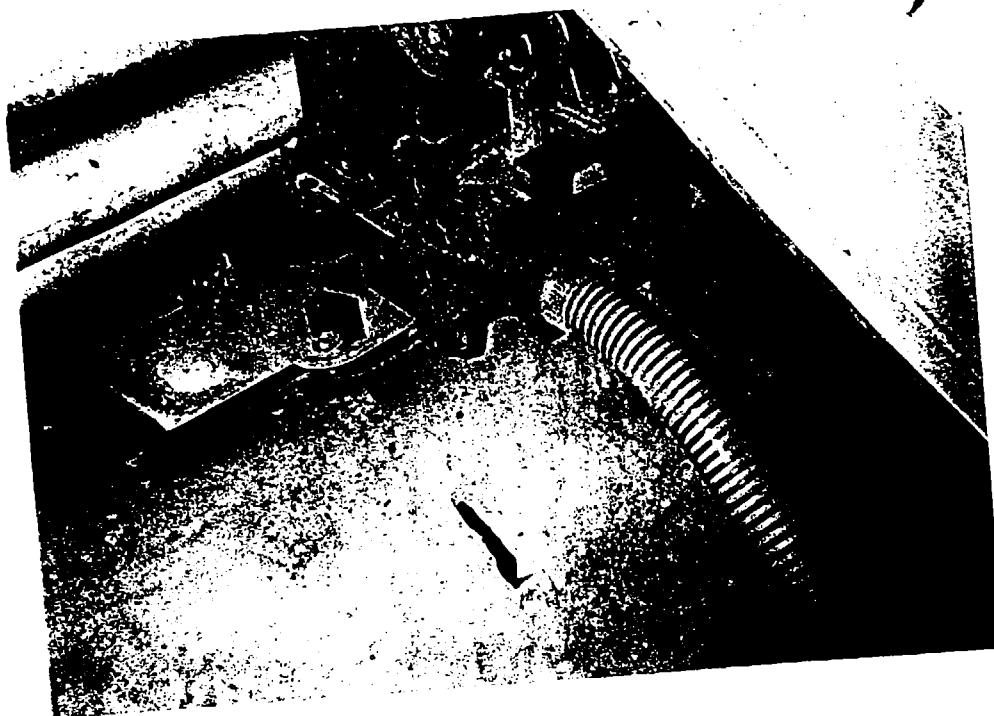


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D.P.
11/2/01





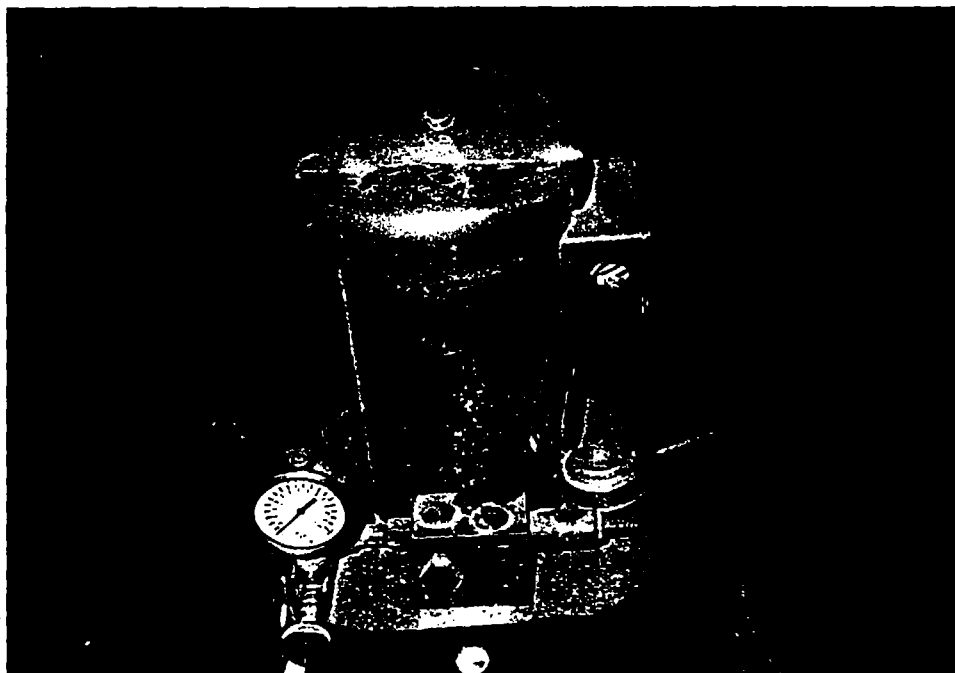
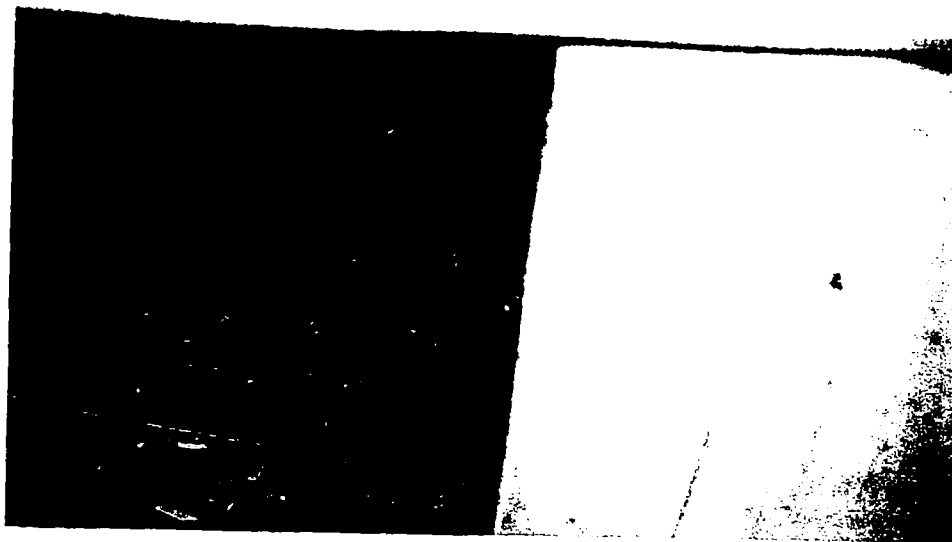
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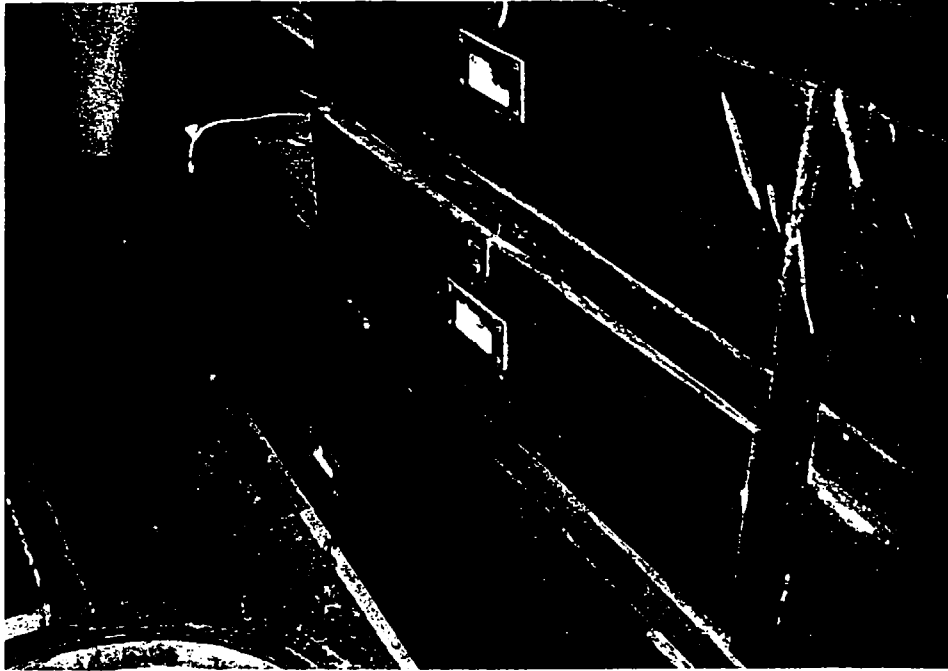
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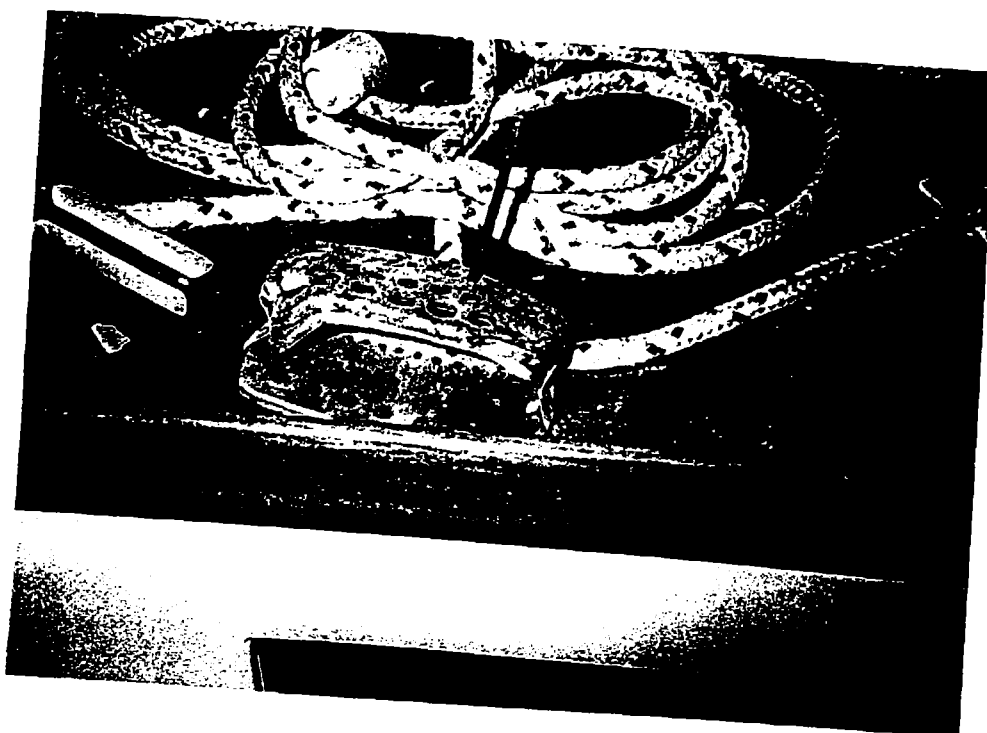
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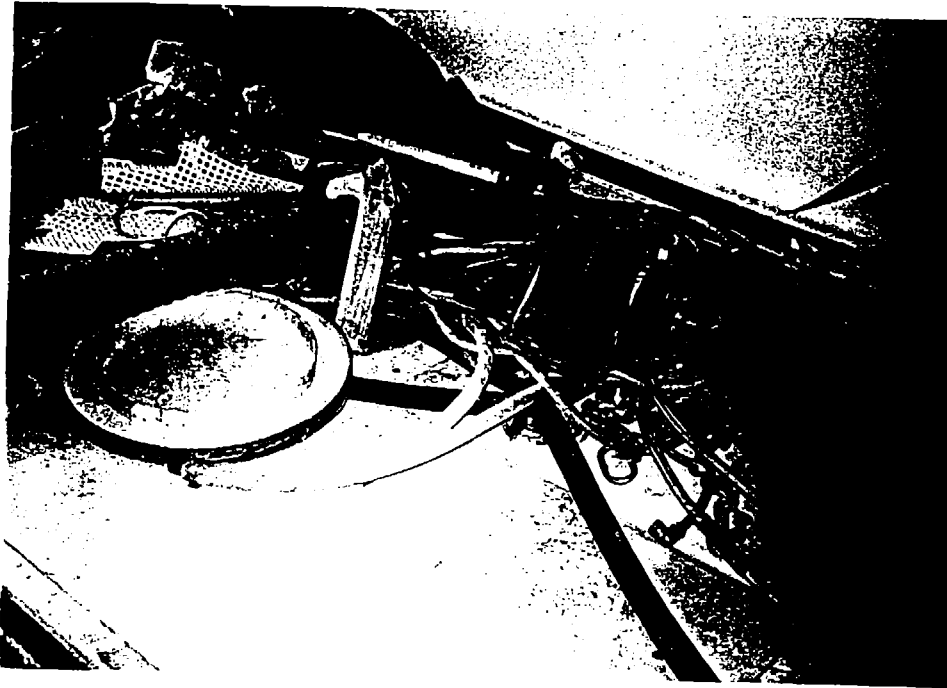
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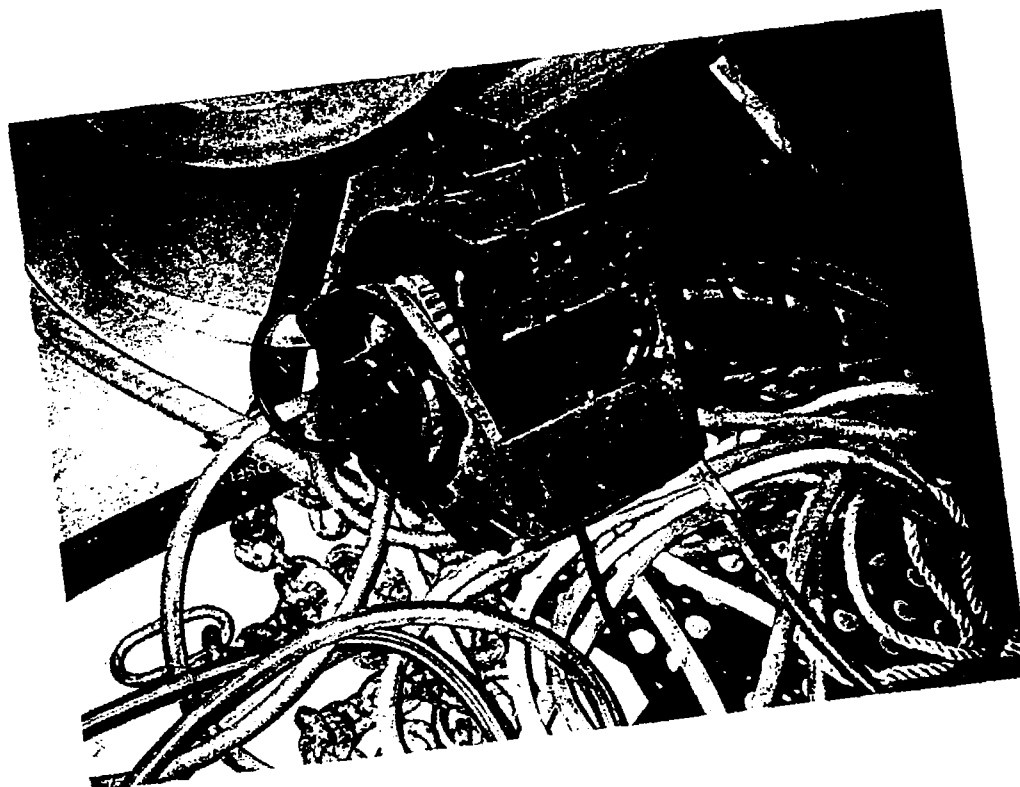
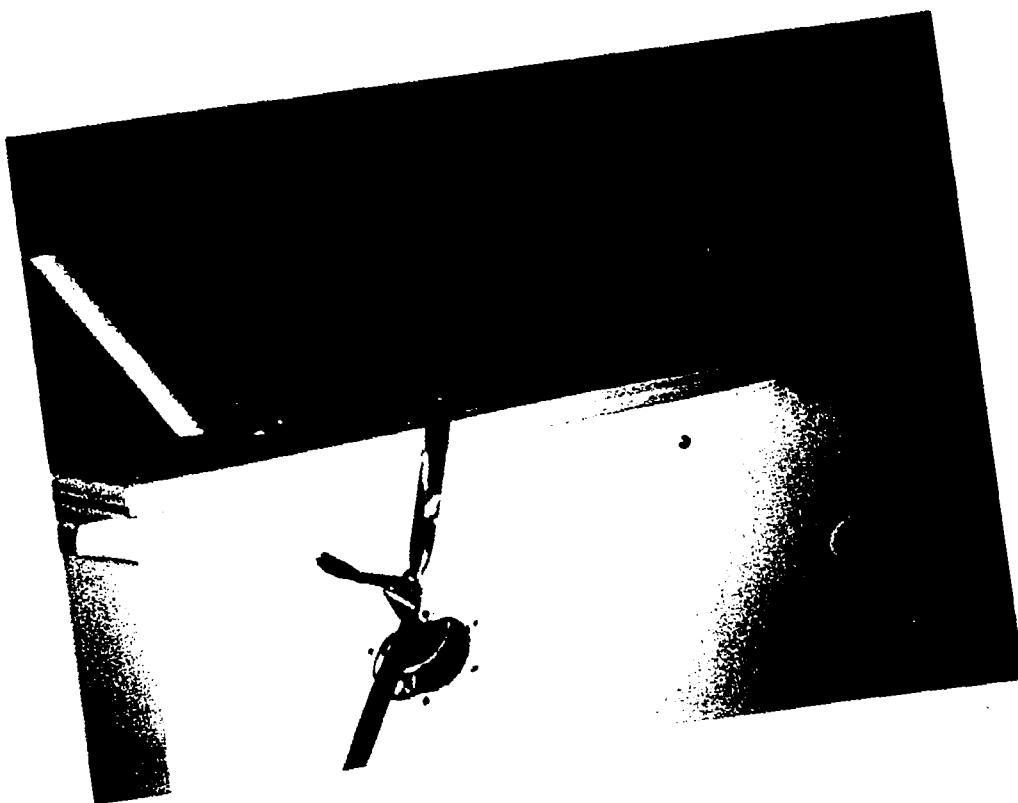
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11/12/01



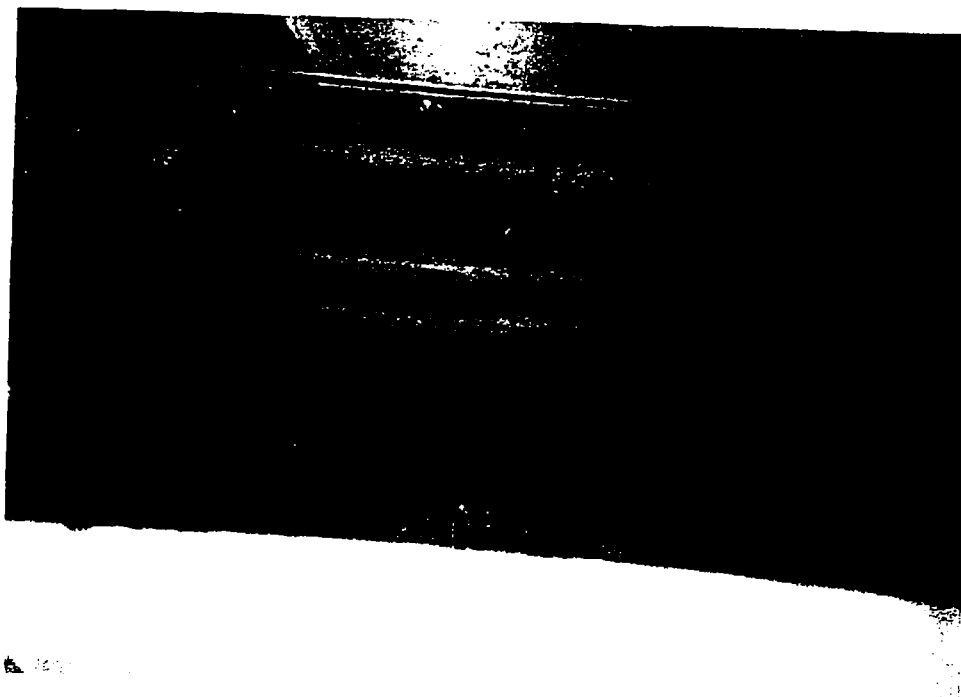
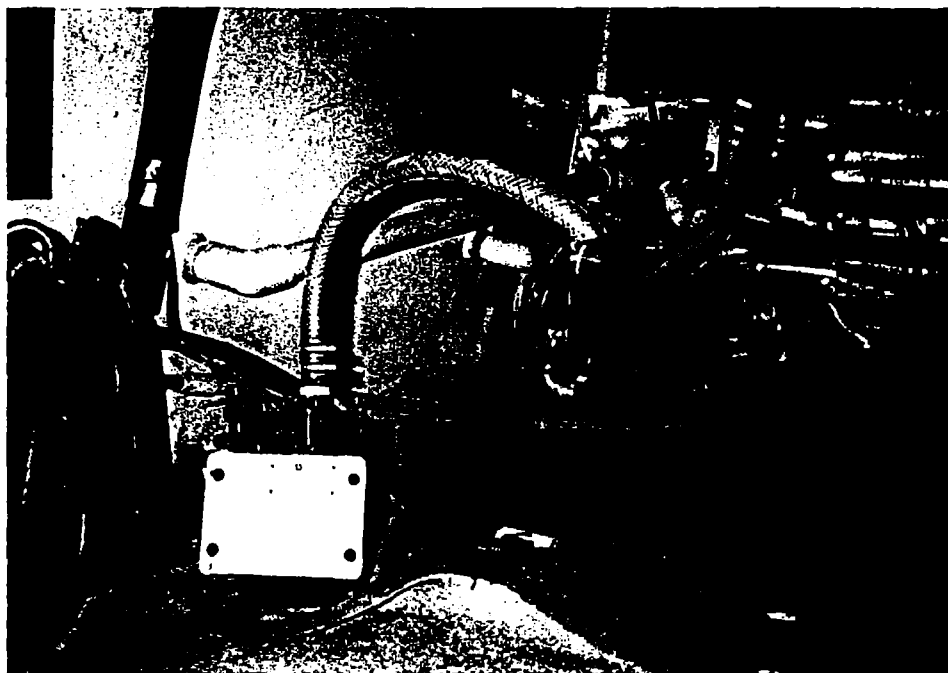
BN



B⁰
11/12/01



BP
1/10



139
11/2/01

M/Y SOUVENIR
STATEMENT OF ACCIDENT FROM ALBERT WILLIAMS
DATE OF ACCIDENT: 7/7/97 - APPROX. TIME 3:20-3:30

I was "taping-off" the varnished cap rail leading from the cockpit to the aft deck. I knew Henry Naranjo was working in the lazaret, but did not see him welding. All of a sudden, I heard a loud explosion which stunned me for a few seconds. I saw a lot of things flying. I immediately looked down into the lazaret and saw Henry Naranjo holding his stomach and crouched in the hole. I started to help him from the hole to the deck, shortly afterwards, Gerber Escobar joined me to lend his assistance. Afterwards, other people started arriving on the scene and between a few of us we laid his head on the deck hatch near the port side of the cockpit. Henry Naranjo was complaining about the pain in his stomach, back and chest. Doug Pierce (vessel's crew) yelled to us "don't move him" and come down to the cockpit and kind of took over, he moved towards the aft starboard stern line to loosen it. Gerber Escobar went to the floats in back of the transom door and waited.

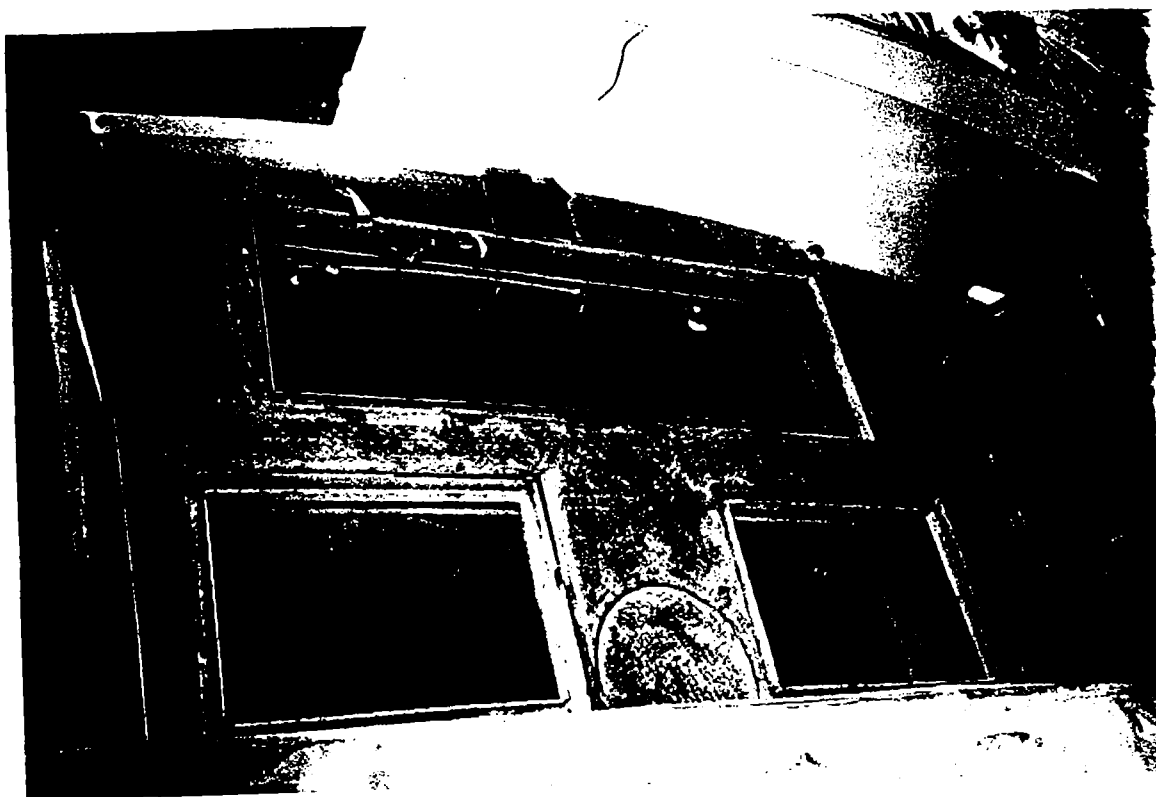


Albert Williams

7 10 97

Date:

14
11/15/01



RUBEN

**BRADFORD MARINE, INC.**

WORLD'S LARGEST AND MOST MODERN UNDERCOVER YACHT REPAIR FACILITY

07/10/97

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MR. STEPHEN B. SMITH
P.O. BOX 52

BARRINGTON, IL 60011

RE: YACHT SOUVENIR EX KEVALLI

Dear Sir:

We are pleased to submit the following proposal:

001 Make repairs as follows to cockpit deck and subdeck in lazarette area:	\$34,479.00
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1. Straighten and repair damage to cockpit deck. (100 Hours)
2. Remove subdeck in lazarette. (50 Hours)
3. Weld in additional angle framing as needed to secure removable deck plating. (100 Hours)
4. Fabricate and install subdeck in similar fashion as original. (100 Hours)
5. Make allowances for sump area in forward end of lazarette. (50 Hours)
6. Drill additional limber holes for drainage. Weld in new or existing mounts as needed for equipment installation. (100 Hours)
7. Make repairs to thru hulls as needed. (50 Hours)
8. Make repairs to port and starboard freshwater tanks as needed. (50 Hours)

NOTES: An out of water survey of hull is suggested for additional repairs which are not included in the above price.

The above price does not include carpentry, paint, electrical or mechanical work.

002 Remove and renew teak deck. Repair teak cabinet.	\$15,550.00
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NOTE: This is an ESTIMATE ONLY.

003 Remove listed explosion damaged equipment from below deck in cockpit extension. Provide and install replacement equipment that is identical or equivalent in function and value. Replumb as required. Equipment includes two (2) hydraulic steering pumps, one (1) circular pump for refrigeration unit, two (2) Par bilge pumps, and one (1) pressure pump with expansion tank.	\$16,205.00
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NFPA CERTIFIED
MARINE CHEMISTS

MARINE CHEMISTS & TESTING CO., INC.

3710 N.W. 94TH AVENUE
HOLLYWOOD, FL 33024

TELEPHONE (954) 435-1480

July 8, 1997

Mr. Paul Engle
Bradford Marine, Inc.
3051 S. R. 84
Ft. Lauderdale, FL 33312

Re: M/Y "Souvenir"

Dear Mr. Engle:

I am writing this letter as a result of being called to the Bradford yard this morning by Mr. Dave Henderson and Mr. Mark Tortora in order to inspect the M/Y "Souvenir". It was reported to me that on the afternoon of July 7, 1997, an explosion took place during hot work operations in the lazarette area of the vessel.

Upon inspection of the vessel, it was found that the entire floor of the lazarette had been displaced upward and away from the hull and frames below. Additionally, the floor had areas torn out where it had detached from the frames to which it had been stitch welded. Upon looking below the floor, frames were noted to be detached from the shell plate and heaved upward. The deck of the cockpit, above this area was bowed in the middle, and wood in the cabinetry at the forward end of the cockpit was cracked and displaced.

The area below the floor contained cement which had been poured in between the frames. There was noted a space of approximately 1-2 inches above the cement and below the top of the frames. This area apparently contained a flammable vapor or gas which ignited when the welder started to attach the doubler plates upon which hydraulic pumps were to be installed. At the time of the mishap, this area was reported to have been flooded with water from a broken through hull fitting. This area was pumped out by the crew and the through hull fitting secured. During my inspection no flammable gas or vapor was found. This is to be expected, since it would have been consumed by the explosion, or displaced by the subsequent flooding.

It is fortunate that the hydraulic pumps were in the work area to limit the upward motion of the deck. I understand that one worker was taken to the hospital, and this morning was reported to be OK. Had the pumps not been in the area, the deck may have heaved upward to a height where the worker may have been crushed between the cockpit floor above and the deck on which he was working.

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I inspected the interior of the vessel, forward of the original transom, and have determined that there are no fuel tanks adjacent to the tank in question. There is a sump area aft of the aft fuel tank in which the rudder and steering gear is installed. It may be noted that on May 20th the fuel tanks were cleaned and Certified as "Safe for Hot Work" by myself. This work was completed and the vessel was subsequently relaunched and moved to its present covered dock.

I can, at this point, only surmise what might have caused the explosion. I suggest that one of three sources of an ignitable mixture could have caused this mishap. Upon questioning the captain and crew, I was told that they had noticed a can of acetone lying on the deck, above the lazarette, which had been overturned, in the days prior to this incident. The Captain stated that there was still some liquid in the can, but he could not state where the remainder of the contents had gone. This acetone or a similar flammable liquid which may have been stored in the lazarette at some time in the past may have been accidentally spilled, and worked its way below the deck plates. It then could have been soaked up by the cement, and contained in the area below the deck either in the void space or the cement. This should be checked before any future hot work is performed in the area. Likewise, at some time, gasoline in storage containers may have been stored in the lazarette, and at some time a portion of it may have spilled and accumulated below the deck plates.

The third source is not so obvious, but nevertheless is as dangerous. It was noted that there had been live bait wells and similar equipment in the lazarette area in the past. It is possible that sea water containing sea life had spilled below and collected in the area between the cement and deck plates. Decomposition of this material over time could have caused a build up of methane gas which is odorless. It would not have been detected, by smell, in the area. The crew who initially started to install the pump, stated that they had drilled a couple of holes in the area in order to bolt down the pumps. Upon finding the deck plate too thin to hold the fasteners, they then had the yard make up the plate which was being welded to the deck at the time of the explosion. The crew who had drilled the holes stated that they did not smell any solvent or gasoline smells when they drilled the holes. The small holes that they drilled may not have allowed any solvent vapors trapped below to exit to the extent that they would have smelled them, so this is inconclusive.

What is apparent is that a flammable gas or vapor was trapped below the deck plate, and it was ignited during the welding of the doubler plate to the lazarette deck plate. Either the heat of welding penetrated the plate and ignited the mixture below, or vapors came out of the drilled holes and were ignited and flashed back, igniting the mixture below the deck plates. If the area below the deck plates had been tested, using a multi-gas tester, the flammable mixture would have been detected and this mishap could have been avoided. It is reported that no test was possible, since your yard does not own a multi-gas tester. I recommend that instruments be purchased and used regularly both in this yard, and in your new yard in the Bahamas when

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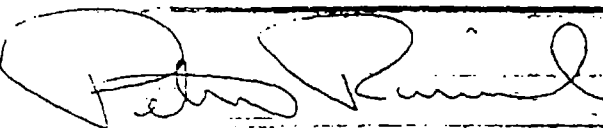
the time comes. Inspections and logging of these inspections, as required by OSHA regulations, should be a standard safety procedure in your yard at times when a Marine Chemist is not required to be called for certification of spaces. For spaces which require Marine Chemist Certification, the competent person must daily perform tests to assure himself that the conditions as stated on the MC certificate are being maintained and have not changed, and again these tests are to be logged. Use of a multi-gas tester is required to perform these tests.

You have at least four persons in the yard who have been trained as Shipyard Competent Persons, all of whom now realize that testing this space would have prevented this mishap. OSHA regulations USC 29 CFR 1915.54 (c) states "Before welding, cutting, heating or brazing is begun on structural voids..., a competent person shall inspect the object and, if necessary test it for the presence of flammable liquids or vapors. If flammable liquids or vapors are present, the object shall be made safe."

Should you have questions about this matter, or if I can be of assistance in helping you decide what type of test equipment you need for the yards, do not hesitate to contact me.

I am sending a copy of this letter to the NFPA Marine Chemist committee which oversees my certification. This is a requirement by them for me to communicate any mishaps of which I have knowledge, so that they can be aware of problems which may affect either the Marine Chemists or regulations which may require changes as we learn more about how and why accidents occur.

Sincerely,



Peter Rimmel, CMC 638

cc: Mark Tortora, Bradford Marine Safety Dept.
Guy Colonna, NFPA, Marine Field Service